

# THE PROCEDURE FOR LEGALIZING FOREIGN PUBLIC DOCUMENTS AFTER THE APOSTILLE CONVENTION ACCESSION: A STATUTORY APPROACH STUDY

Maretha Crisindiana<sup>\*</sup>, Nanik Trihastuti<sup>\*\*</sup>

<sup>\*</sup> Faculty of Law, Diponegoro University, Semarang, Indonesia

<sup>\*\*</sup> *Corresponding author*, Faculty of Law, Diponegoro University, Semarang, Indonesia  
Contact details: Faculty of Law, Diponegoro University, 50275 Semarang, Indonesia



## Abstract

**How to cite this paper:** Crisindiana, M., & Trihastuti, N. (2022). The procedure for legalizing foreign public documents after the Apostille Convention accession: A statutory approach study. *Corporate Law & Governance Review*, 4(2), 8–16. <https://doi.org/10.22495/clgrv4i2p1>

Copyright © 2022 by Authors

This work is licensed under a Creative Commons Attribution 4.0 International License (CC BY 4.0).  
<https://creativecommons.org/licenses/by/4.0>

**ISSN Online:** 2664-1542  
**ISSN Print:** 2707-1111

**Received:** 24.05.2022  
**Accepted:** 10.10.2022

**JEL Classification:** P37, Z32, Z38  
**DOI:** 10.22495/clgrv4i2p1

This research was based on the national efforts to simplify the procedure for the legalization of foreign public documents to improve the investment climate. This research focuses on the implementation of the legalization of foreign public documents after the accession of the Apostille Convention in Indonesia. The main basis for examination was Presidential Regulation No. 2 of 2021 on the Accession of the Convention of Abolishing the Requirement of Legalization for Foreign Public Documents, also known as the Apostille Convention. The method used is a normative juridical research method. This research emphasizes library research by using secondary data sources such as statutory provisions, legal theory, and scientific works (Suteki & Taufani, 2020). The statutory approach is carried out by analyzing the statutory provisions related to the legal issues being studied (Marzuki, 2016). Furthermore, an analysis of legal materials is carried out using qualitative analysis described in sentences without mathematical calculations or statistics as an analytical tool. The results showed that the implementation of the Apostille Convention does not necessarily render the current legalization of public documents invalid, but rather replaces it with a simpler procedure, namely the issuance of an apostille certificate, which functions as a statement of the validity of the document. The conclusion highlighted the need for ratifying the Apostille Convention comes into force, especially in ASEAN member countries to enhance the foreign direct investment in this association.

**Keywords:** Legalization, Documents, Procedure, Foreign Public Documents, Apostille

**Authors' individual contribution:** Conceptualization — N.T.; Methodology — N.T.; Validation — M.C.; Formal Analysis — M.C. and N.T.; Investigation — M.C.; Resources — M.C.; Data Curation — N.T.; Writing — Original Draft — M.C. and N.T.; Writing — Review & Editing — N.T.; Visualization — M.C.; Supervision — N.T.; Project Administration — N.T.; Funding Acquisition — M.C. and N.T.

**Declaration of conflicting interests:** The Authors declare that there is no conflict of interest.

**Acknowledgements:** The Authors indebted to the Faculty of Law, Diponegoro University for the research support.

## 1. INTRODUCTION

On October 5, 1961, the Hague Conference on Private International Law or *Conférence de la Haye de droit international privé* (HCCH) an international organization based in the Hague then held a series of conferences including the Convention of October 5, 1961 Abolishing the Requirement of Legalization for Foreign Public Documents, hereinafter referred to as the Apostille Convention. The implementation of the Apostille Convention aims to abolish the requirement in the form of legalization of cross-border public documents previously carried out by diplomatic or consular functions. It is hoped that after the implementation of the provisions of the Apostille Convention, the traffic of public documents between one country and another can become simpler. Until now, there are 121 countries participating in the Apostille Convention. Of all the participating countries, only 3 countries came from the ASEAN region, namely Brunei Darussalam, the Philippines, and Singapore (Hague Conference on Private International Law [HCCH], 1961).

The research in writing this article uses responsive legal theory, which is sociological jurisprudence which is a philosophical approach to law that prioritizes the formation of social laws. Legal provisions are called responsive when the law responds to social needs and input from the community. According to Nonet and Selznick (2016), responsive law has a regulatory function, namely providing interpretation and correction of policies needed to realize what the law aspires to. Responsive law is needed in a transitional period like today so that apart from being required to be an open system, it must also prioritize the goals to be achieved (the sovereign of purpose) and the consequences that may arise from the application of the law (Utomo, 2019; Velte & Loy, 2018; Junyu, 2020).

By looking at the current condition of Indonesia and the world, regulation is needed that can respond to the need to accelerate the growth of the national economy. Therefore, in order to improve public services aimed at improving the investment climate and accelerating economic growth in Indonesia, the Government deems it necessary to simplify the process of legalizing foreign public documents. So that on January 4, 2021, the Government has issued Presidential Regulation No.2 of 2021 concerning Ratification of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Convention on Elimination of Legalization Requirements for Foreign Public Documents), hereinafter referred to as the Presidential Regulation on Accession to the Apostille Convention. This was followed by the handing over of the instrument of accession to the Apostille Convention to the Ministry of Foreign Affairs of the Netherlands on October 5, 2021 (Lubis, Murwadji, Sukarja, & Rosmalinda, 2022). The ratification of the Apostille Convention has been eagerly awaited by the public, especially business actors in Indonesia because it is expected to simplify the procedure for legalizing public documents which have been complicated and layered. Until now, there

is no provision that further regulates the procedure for legalizing public documents after accession to the Apostille Convention has been made. Furthermore, it is still necessary to know about the stages that must be carried out by the Government as a country that accesses the Apostille Convention after the procedure for accession to the Apostille Convention is carried out.

Based on the background described above, the researchers are interested in reviewing and analyzing these problems by focusing on the discussion of how the legalization procedures for foreign public documents have been applied in Indonesia and what are the implications of accession to the Apostille Convention on the regulation of legalization of foreign public documents in Indonesia. To prove the originality of the article, before compiling it, a search was carried out and the researchers found several legal writings and research related to the legalization of foreign public documents and the Apostille Convention, including research conducted by Penasthika (2017) explaining the importance of the accession of ASEAN member countries to the Apostille Convention in order to realize a conducive, transparent and profitable investment regime in the ASEAN region. Further Junaidi (2018) discussed that the urgency of accession to the Apostille Convention must also be seen from the readiness and coordination of state institutions appointed as Competent Authority. However, the two studies have not fully discussed the implications of accession to the Apostille Convention on the regulation of the legalization of foreign public documents in Indonesia. This is because both studies were conducted prior to the accession to the Apostille Convention.

This paper is structured as follows. Section 1, the Introduction, contains the background of the problem where cross-border human relations require legalization procedures to ensure the validity of public documents before they can be used in the territory of the destination country. Section 2, the literature review, explains the main content of the discussion. Then Section 3 is the methodology which explains the research method used — a normative juridical research method. Section 4 explains the procedure for ratification of foreign public documents in Indonesia and the implications of accession to the Apostille Convention on the ratification of foreign public documents in Indonesia. Then in Section 5, the research finds that the implementation of the Apostille Convention does not necessarily invalidate the ratification of the current public document, but replaces it with a simpler procedure, namely the issuance of an apostille certificate, which functions as a statement of the validity of the document.

## 2. LITERATURE REVIEW

Legalization has the meaning of ratification (according to the law). The definition of legalization is a particular set of characteristics that institutions may (or may not) possess. The characteristics of legalization consist of 3 aspects, namely obligations, precision, and delegation. Bonds that there are

obligations from the state or parties who promise to comply with the rules and commitments that have been agreed. Precision, namely the provisions that have explicitly regulated the behavior that is required, authorized, and prohibited by these provisions. Meanwhile, delegation is the authority given to third parties to enforce, interpret, and resolve disputes and then make new provisions (Sianipar, 2014).

Renier (2016) defines documents specifically, which include official letters and state letters, including letters of agreement, laws, concessions, grants, and so on. A document is called trustworthy if it meets 2 requirements, namely reliability, and authenticity. Requirements for reliability, namely the information contained in the document is accurate or true. Meanwhile, the authenticity requirement is that the intention of the document maker has been reflected in the substance of the document and the document is in good condition (Junyu, 2020; Lubis et al., 2022). A document in order to fulfill these two requirements must go through a document legalization procedure. Wiebe (2006) defines document legalization as a procedure for identifying a document to ensure that the document has legal force, is issued, and is signed by an official who has the authority to do so (Penasthika, 2017).

Nowadays, with the increasing number of trips and cross-country affairs, the process of legalizing public documents is becoming more and more necessary. Legalization is carried out when a document originating from one country will be used in another country. This is done to ensure the origin and validity of a document so that the document can be accepted and used in the destination country (Muri, Prayogo, & Arif, 2018). Regarding the number and types of documents that require legalization procedures, it depends on the nature of the documents and whether the destination country is a party to a multilateral agreement regarding document legalization, in this case, the Apostille Convention (Stedman, 2001).

Document legalization is generally carried out for various purposes, including travel abroad, education abroad as a document required by a school or university, supporting documents in cross-border business, and so on. Examples of documents that require document legalization include family cards, birth certificates, marriage certificates, divorce certificates, death certificates, education certificates, certificates, business establishment certificates, business permits, agreements, court decisions, and so on.

### 3. RESEARCH METHODOLOGY

The research uses a normative juridical research method, namely legal research by conducting searches on regulations and literature related to

the problems studied (Soekanto & Mamudji, 2015). This research emphasizes more on literature study by using secondary data sources such as statutory provisions, legal theory, and scientific works (Suteki & Taufani, 2020). The statutory approach is carried out by analyzing the statutory provisions related to the legal issues being studied (Marzuki, 2016). Furthermore, an analysis of legal materials is carried out using qualitative analysis described in sentences without mathematical calculations or statistics as an analytical tool. The research in writing this journal publication uses responsive legal theory, which is a theory that is sociological jurisprudence which is a philosophical approach to law that prioritizes the formation of social laws. Legal provisions are called responsive when the law responds to social needs and input from the community (Puaschunder, 2018).

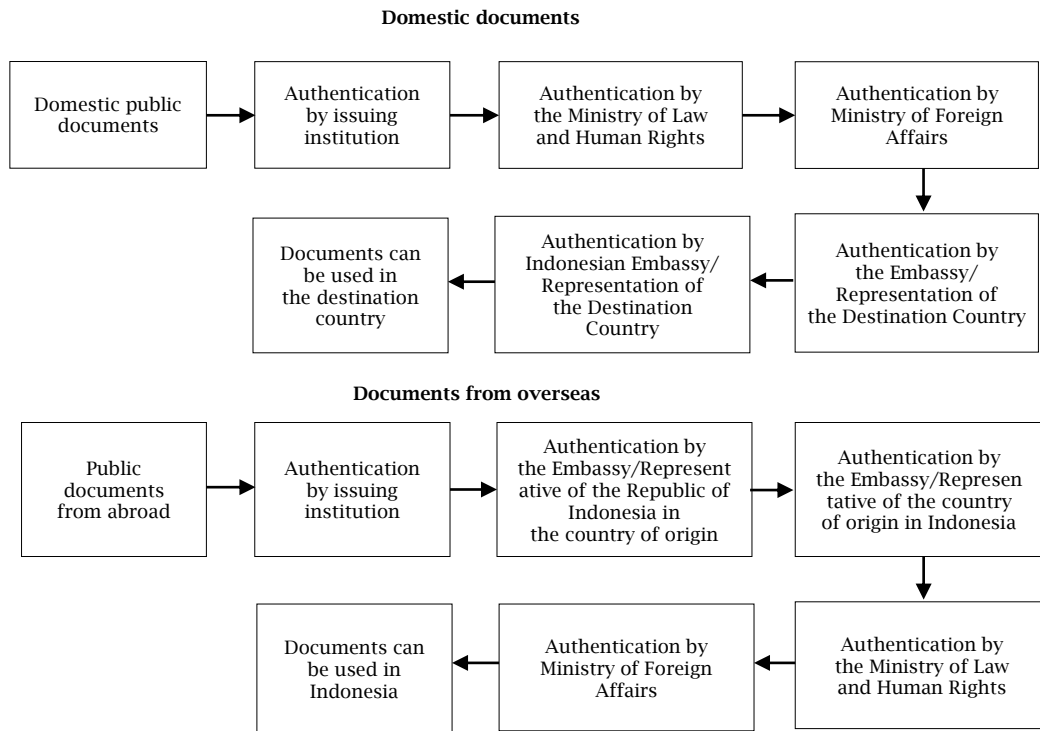
## 4. RESULTS AND DISCUSSION

### 4.1. Procedure for legalization of foreign public documents in Indonesia

The definition of document legalization as quoted from the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia No. 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs is a series of procedures to ratify documents through verification of official signatures/stickers/stamps from authorized officials with specimens. So, it can be said that document legalization is ensuring the correctness of the official signature/sticker/stamp of the official issuing the document, but it does not include the truth of the substance of the document.

Article 1 point 2 of the Regulation of the Ministry of Law and Human Rights of the Republic of Indonesia No. 19 of 2020 concerning Legalization Services for Official Signatures on Documents at the Ministry of Law and Human Rights uses the term Legalization of Official Signatures, hereinafter referred to as legalization as an act to ratify the signatures of Officials on the requested document by matching the signature/stamp with the specimen. In Article 2 paragraphs (1) and (2) it is stated that legalization is carried out on official signatures/stickers/stamps on documents originating within the country and will be used abroad or originating from abroad and will be used domestically.

The process of legalizing public documents in Indonesia basically involves 2 agencies, namely the Ministry of Law and Human Rights and the Ministry of Foreign Affairs. Briefly, the procedure for legalizing foreign public documents can be illustrated in Figure 1.

**Figure 1.** Procedure for legalizing foreign public documents

According to Figure 1 above, it can be seen that the procedure for legalizing foreign public documents, both those originating from within the country and to be used abroad, as well as those originating from other countries and to be used domestically, is very complicated and must go through several stages of authentication by several relevant agencies. In practice, the legalization process cannot be separated from the authentication process, because every legalization process requires authentication to ensure the validity of the document and the signature of the official who issued the document.

The stages mentioned above are the basic stages that must be passed in every procedure for legalizing public documents originating from Indonesia. There are exceptions for some documents, including divorce decisions and divorce deeds issued by the Religious Courts that must first be legalized at the Supreme Court, while documents issued by the Office of Religious Affairs (KUA) must first be legalized by the Ministry of Religion. After going through the legalization process at the Supreme Court or the Ministry of Religion, then the documents can only be continued with the legalization process at the Ministry of Law and Human Rights.

Along with the times, the process of legalizing foreign public documents in Indonesia can also be done electronically (online). At the Ministry of Law and Human Rights, the online legalization process for foreign public documents is carried out through the electronic legalization application or ALEGTRON, namely <http://legalisasi.ahu.go.id>. Electronic legalization applications must be verified to determine the completeness of the documents submitted and the compatibility between conventional or electronic signatures on documents and specimens contained in the system.

The application for legalization will be rejected if there are deficiencies in the completeness of the document, there is no signature specimen, or there is a discrepancy between the name, position, and signature of the official contained in the submitted document and the specimen database. If the verification result of the legalization application is declared complete, a notification will be issued to make payments in accordance with the provisions of non-tax state revenue (PNBP) applicable to the Ministry of Law and Human Rights no later than 7 days from the notification. After making the payment, the applicant will receive a notification of printing the legalization sticker independently by the applicant at the Regional Office of the Ministry of Law and Human Rights.

After that, it is continued with the legalization process at the Ministry of Foreign Affairs which can also be submitted electronically by the applicant through an application on the Google Play Store. Verification of the application for legalization will be carried out by the Consular Directorate to check the suitability of filling out the form with the uploaded document and the suitability of the part of the document containing legalization by the Ministry of Law and Human Rights with the specimens contained in the system. In the event that there are data discrepancies or indications of data misuse by the applicant, the Consular Directorate may reject the application for legalization. If it is declared complete and appropriate, the applicant will receive a notification to make payments in accordance with the PNBP provisions applicable to the Ministry of Foreign Affairs. Furthermore, the applicant will receive a notification regarding the schedule for submitting documents to be legalized at the service of the Consular Directorate. Legalization is carried out by affixing a legalization sticker and placing an embossed stamp on the requested document.

The use of the technology-based services mentioned above can certainly shorten the time; however, it still cannot reduce the number of stages of legalization by the relevant agencies. This is because the electronic legalization application is not yet integrated but is still separate from one institution to another. For this reason, a simpler public document legalization procedure is needed so that public documents originating from within and outside Indonesia can be directly used. This is the reason behind the Government's accession to the Apostille Convention in Indonesia.

#### 4.2. Implications of accession to the Apostille Convention on Legalization of Foreign Public Documents in Indonesia

The term convention in the practice of making international treaties is usually used for agreements with multilateral parties. In general, conventions contain provisions, rules, and general legal principles and allow the international community to be widely involved (Roisah, 2015), while the word apostille comes from the French word *apostiller*, which means annotation.

On October 5, 1961, the HCCH held the Convention on Abolishing the Requirement of Legalization for Foreign Public Documents (the Apostille Convention). In addition to aiming to unify rules and procedures in international civil law, the HCCH also aims to develop multilateral legal service instruments and communication between countries in the world and the various legal systems they adhere to. By becoming a member country of the HCCH, the country can become part of the international cooperation network under the auspices of the HCCH. The application of the Apostille Convention is the legal basis for a country in enforcing the simplification of the procedure for legalizing public documents. In the first part of the Apostille Convention, it is explained that this convention aims to abolish the legalization requirement of cross-border public documents and replace it with a simpler procedure.

As a first step in the procedure for accession to the Apostille Convention, on January 4, 2021, the Government issued a Presidential Decree on the Accession to the Apostille Convention. The Presidential Regulation only consists of 2 articles that contain the ratification of the Apostille Convention with a declaration against Article 1 regarding the scope of public documents and when the Presidential Regulation comes into force. Meanwhile, the appendix only contains an explanation that the Government is bound by the provisions of Article 1 regarding the scope of public documents in the Convention by excluding documents issued by the Prosecutor's Office as a prosecution agency. Until now, there is no provision that further regulates the procedure for legalizing public documents after accession to the Apostille Convention has been made.

The policy of accession to the Apostille Convention above is in accordance with the responsive legal theory by Nonet and Selznick (2016), where the existing law is the embodiment of various responses to the needs and aspirations of the community. This theory argues that law is a way to achieve goals (Arianto, 2010). To that end,

responsive law strengthens the relationship between openness and integrity even though there is often a discrepancy between the two. The ideal type of responsive law demands a more flexible interpretation of legal provisions (Fadjar, 2013).

These aspects of the responsive legal theory are reflected in the Government's efforts to improve public services and the ease of doing business in Indonesia by acceding to the Apostille Convention. The Government's move to access the Apostille Convention is a form of response to the complicated and complicated bureaucratic process of legalizing foreign public documents. The policy is also one of the Government's strategies to improve the investment climate which ultimately aims at accelerating the national economy (Ahmad, Barros, & Sarmiento, 2018).

Article 11 of the Vienna Convention stipulates that a country can declare to be bound by an international agreement, among others by means of signature, exchange of instruments, ratification, acceptance, approval, accession, or by other means agreed in the agreement. The definition of accession is an agreement to bind itself to an international treaty by a country that does not participate in the negotiation of the relevant agreement or country because of a certain matter cannot fulfill the requirements to become a party to a signing or ratification agreement (Basuki, 2013). By binding themselves to the provisions contained in international agreements, each country can outline the basis for regulating various activities and resolving various problems that arise for the survival of the community itself (Mauna, 2008). The United Nations in the Yearbook of the International Law Commission 1966 stated that the participation of a country in an International Convention/Treaty in the form of accession is possible if the clause in the International Convention/Treaty allows the state party to the said International Convention/Treaty has given consent. As regulated in Article 9 paragraphs (1) and (2) of Law No. 24 of 2000 concerning International Treaties, it is possible for the Government to ratify an international agreement in the form of a law or presidential decree as long as the international agreement requires it.

Basically, the procedure for ratifying an international agreement consists of 2 stages, namely internal procedures and external procedures. Regarding internal procedures, there are 2 mechanisms for ratifying international agreements, namely in the form of laws and presidential decrees. After carrying out the internal procedure, it will be followed by an external procedure, namely the signing of the instrument of ratification or accession by the Minister of Foreign Affairs to then be submitted to the parties in the bilateral agreement or the party assigned the task of storing the instrument of ratification or accession (depository).

On October 5, 2021, the Government of Indonesia submitted an instrument of accession to the Apostille Convention to the Dutch Ministry of Foreign Affairs which includes, among others, the legal instrument for ratifying the Apostille Convention in Indonesia, namely the Presidential Regulation on Accession to the Apostille Convention with a declaration that public documents issued by the Attorney General's Office not included in public documents that are removed from the legalization

requirements as stipulated in the Apostille Convention, and the appointment of the Ministry of Law and Human Rights of the Republic of Indonesia as the competent authority in the implementation of the Apostille Convention.

Referring to the provisions of Articles 12 and 15 of the Apostille Convention, after the process of submitting the instrument of accession, there will be a “waiting period” of 6 months for countries that have previously become participants in the Apostille Convention to file an objection to the accession made by Indonesia. In the event that there are no objections, the Apostille Convention will enter into force on the 60th day after the end of the 6 months of a waiting period, namely June 4, 2022.

The provisions of the Apostille Convention apply to all public documents that have been made in the territory of a country that is a party to the Apostille Convention where the document will be used in the territory of another Apostille Convention party country. The concept of a public document can be interpreted broadly depending on the country in which the document is issued. Thus, each participating country must have a clear understanding of the types of documents that fall into the category of public documents and are subject to the provisions of the Apostille Convention (HCCH, 2012). Although it does not explicitly stipulate the types of public documents, Article 1 of the Apostille Convention has provided guidelines regarding the criteria for documents that can be categorized as public documents. The documents include documents issued by authorities or officials related to courts or tribunals of a country, including those from prosecutors, clerks, or providers of judicial processes (*huissier de justice*), documents issued by administrative officials (birth certificates, marriage certificates, death certificates, and licensing documents); deed issued by a Notary; and official certificate attached to a document affixed with the signature of a person in his/her civil authority.

In addition to providing guidance regarding the categories of documents that are included in public documents, the Apostille Convention also provides limitations on documents that are not exempt from legalization requirements, namely documents issued by diplomatic and consular representatives and documents that are administrative in nature and relate directly to trade or customs. These two documents are excluded from the category of public documents that do not require legalization requirements because in practice countries in the world give special treatment to these documents.

Article 2 of the Apostille Convention states that with the enactment of the provisions of the Apostille Convention by a country, public documents originating from abroad as mentioned above no longer require legalization to be used in other participating countries. For such documents, it is sufficient to carry out an apostille or allonge which serves to authenticate or ensure the correctness of the signature and the capacity of the official who signed the document based on the identity or stamp contained in the document. In an apostille or allonge, an official appointed by a participating country is given the authority to issue a certificate to replace the legalization requirements (Irianti, Ashri, & Sakharina, 2019).

The HCCH in its recommendation to the Government of Indonesia regarding accession to the Apostille Convention said that accession to the Apostille Convention is not only related to national policies but also requires trust from member countries or countries that have ratified/ accessed the convention, for that the Government needs to prepare a clear infrastructure and framework (Makarim, 2015; Syarief, 2021). In this regard, the appointment of a competent authority is one of the things that must be prioritized in order to gain mutual trust from the countries participating in the Apostille Convention.

In Article 6 of the Apostille Convention, each participating country is obliged to appoint a Competent Authority authorized to issue an apostille certificate. With regard to the appointment of a competent authority, each participating country is obliged to notify the Dutch Ministry of Foreign Affairs at the time of depositing the instrument of ratification/accession/declaration of expansion, including if there is a change in the appointed authority. The HCCH in the Apostille Handbook “*A Handbook on the Practical Operation of the Apostille Convention*” explains that the competent authority has 3 main functions, namely: 1) verifying the authenticity (origin) of public documents, 2) issuing apostilles certificates and 3) record every apostilles certificate issued.

The Apostille Convention does not provide a limit on the number and agencies appointed as competent authorities in a country. As stated in the Guidelines for the Apostille Convention, that (HCCH, 2012):

*“Each Contracting State is required to designate one or more authorities that are competent to issue Apostilles (known as Competent Authorities). The designation of Competent Authorities is crucial to the effective operation of the Apostille Convention. Each State is free to determine the identity and quantity of Competent Authorities”* (p. 8).

The considerations for the number of competent authorities are (Zablud, 2016):

- desire to provide accessible and decentralized services to all parties in need;
- number of administrative functions in each country;
- separation of powers and functions between agencies;
- reference set by participating countries influential;
- the attraction of authority between one agency and another;
- the readiness of human resources, both in terms of knowledge and training.

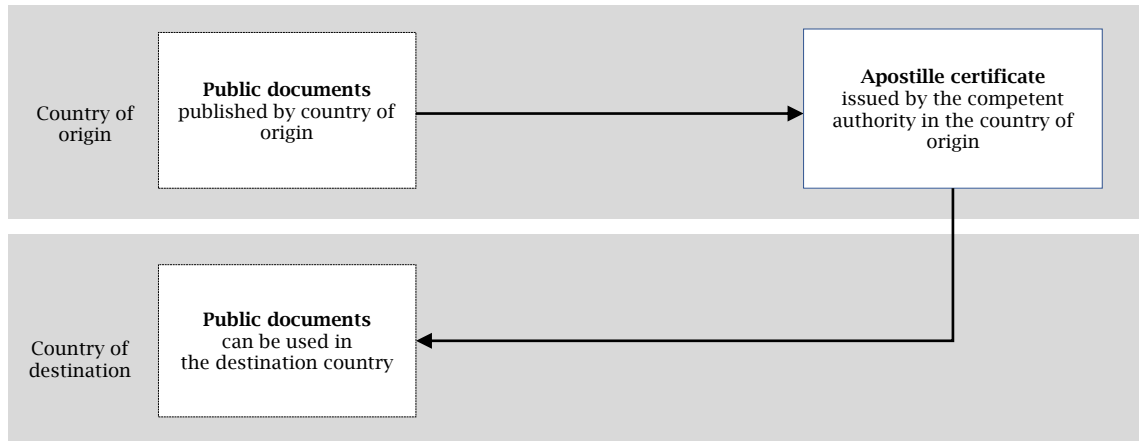
Simultaneously with the delivery of the instrument of accession by the Government of Indonesia to the Ministry of Foreign Affairs of the Netherlands, the Government of Indonesia also informed that the competent authority appointed was the Ministry of Law and Human Rights of the Republic of Indonesia c.q. Directorate General of General Legal Administration. The appointment of the Ministry of Law and Human Rights of the Republic of Indonesia as a competent authority is carried out based on consideration of experience, readiness, and practice in legalizing foreign public documents that have been in force in Indonesia.

Furthermore, the Ministry of Law and Human Rights as the competent authority will prepare technical regulations that are used as the basis for implementing the provisions of the Apostille Convention in the form of a Regulation of the Ministry of Law and Human Rights which will contain, among other things, the procedure for

issuing an apostille certificate, the types of documents included in the list of documents that can be issued an apostille certificate and the rate charged for each issuance of an apostille certificate.

After the entry into force of the Apostille Convention, the procedure for ratifying public documents is as illustrated in Figure 2.

**Figure 2.** Procedure for ratifying public documents after the Apostille Convention



It can be seen from Figure 2 above that the enactment of the Apostille Convention will simplify the procedure for legalizing public documents so that it is more effective and efficient because it does not involve many agencies. The Apostille Convention only requires one formality to ensure the authenticity of the signature/stamp/stamp and the authority of the official who signs the document, namely by issuing an apostille certificate or an along by the competent authority of the country where the document is issued. The apostille or along certificate must be included in the document applied for at the request of the person who signed the document or bearer of the document. On the apostille certificate, there will be a register number that is connected online to the HCCH website, so that all countries participating in the Apostille Convention can access it.

The implementation of the Apostille Convention to authenticate foreign public documents is not without problems. On the one hand, the existence of the Apostille Convention can simplify the procedure for legalizing foreign public documents before they can be used in the destination country. On the other hand, it also contains weaknesses that can be considered an abuse of authority, for example, the use of apostille for the ratification of diplomas issued by certain colleges or universities that are not accredited in their respective countries (Hartoyo & Noor, 2019). The purpose of simplifying the legalization of foreign public documents by using the Apostille Convention also matters in some countries. For instance, Hartoyo and Noor (2019) encourage ASEAN members to be the Convention contracting state to improve foreign direct investment in their own country. This is because only a few countries from ASEAN members become the ratifying states of the Apostille Convention. Moreover, the findings are also comparable to other ratifying states. Tsouka (2015) found the need for a solution for simplifying the procedure for

authenticating public documents in European Union countries (Tsouka, 2015). Another research also found some features in adopting the Convention in e-document or known as e-Apostilles, such as highlighted by Lee (2020) in South Korea, Durdevic (2015) in Serbia, Reyes (2014) in ASEAN member countries, Griffiths (2016) in Australia and Bechini (2008) in Belgium.

Thus, in order to ensure that the provisions contained in the Apostille Convention can be implemented properly, the Government of Indonesia as the accession country should socialize with all agencies regarding the application of the Apostille Convention and provide information and training to relevant agencies regarding the technical procedures for issuing apostille certificates (HCCH, 2012). In addition, it is also necessary to disseminate information to the general public who will use apostille services and professional groups (e.g., lawyers, notaries, and intellectual property rights lawyers) regarding the new, simpler procedure for authenticating cross-border public documents.

The enactment of the Apostille Convention does not mean abolishing the legalization service for foreign public documents that have been in effect in Indonesia. The public document legalization service will still apply to destination countries that are not parties to the Apostille Convention or to documents that are not included in the list of documents that can be issued an apostille certificate. After the entry into force of the Apostille Convention, applicants will still be given the option to use the service according to their considerations and needs.

## 5. CONCLUSION

Cross-border human relations require legalization procedures to ensure the validity of public documents before they can be used in the territory of the destination country. The documents that require the legalization process include birth certificates, marriage certificates, family cards,

diplomas, certificates, court decisions, etc. In addition to personal documents, the legalization of documents is also needed in the management of corporations/companies, including deeds of establishment, articles of association, business licenses, invoices, and trade documents between countries.

The legalization process is carried out to ensure the origin and validity of a document so that the document can be accepted and used in the destination country. The legalization of foreign public documents in Indonesia basically involves 2 agencies, namely the Ministry of Law and Human Rights and the Ministry of Foreign Affairs. Along with the times, the process of legalizing public documents can also be done electronically.

The research finds that the implementation of the Apostille Convention does not necessarily abolish the procedure for legalizing foreign public documents, but replaces it with a simpler procedure, namely the issuance of an apostille certificate which serves to declare the validity of the document.

After the Apostille Convention comes into force, the legalization service of foreign public documents that have been in effect will still be available for destination countries that are not countries that are parties to the Apostille Convention or for documents that are not included in the list of documents that can be issued an apostille certificate.

In the future, the community will still be given the option to use the service according to their respective considerations and needs. It is hoped that after the implementation of the provisions of the Apostille Convention, the traffic of public documents between one country and another can become simpler. Until now, there is no provision that further regulates the procedure for legalizing public documents after accession to the Apostille Convention has been made. The results encourage that in further research it is still necessary to know about the stages that must be carried out by the Government as a country that accesses the Apostille Convention after the procedure for Accession to the Apostille Convention is carried out.

## REFERENCES

- Ahmad, N. G., Barros, V., & Sarmiento, J. M. (2018). The determinants of dividend policy in Euronext 100. *Corporate Ownership & Control*, 15(4), 8-17. <https://doi.org/10.22495/cocv15i4art1>
- Arianto, H. (2010). Hukum responsif dan penegakan hukum di Indonesia. *Lex Jurnalica*, 7(2), 115-123. Retrieved from <https://digilib.esaunggul.ac.id/public/UEU-Journal-4644-Henry-Arianto.pdf>
- Basuki, Z. D. (2013). *Kemungkinan Indonesia mengakses the Hague Convention abolishing the requirement of legalization for foreign public documents*. Retrieved from <http://www.bphn.go.id/data/documents/prof-zulfamakalah.pdf>
- Bechini, U. (2008). The digital tower of Babel. *Digital Evidence & Electronic Signature Law Review*, 5, 183-186. <https://doi.org/10.14296/deeslr.v5i0.1865>
- Durdevic, S. (2015). Elektronski pečat Apostille u pravu Republike Srbije [Electronic apostille in the legal system of the Republic of Serbia]. *Pravni Zapisi*, 6, 428. <https://doi.org/10.5937/pravzap0-9226>
- Fadjar, A. M. (2013). *Teori-teori hukum kontemporer*. Malang, Indonesia: Setara Press.
- Griffiths, J. J. (2016). Recognition of foreign administrative acts in Australia. In J. Rodriguez-Arana Muñoz (Ed.), *Recognition of foreign administrative acts. Ius comparatum — Global studies in comparative law* (Vol. 10, pp. 51-89). Springer, Cham. [https://doi.org/10.1007/978-3-319-18974-1\\_4](https://doi.org/10.1007/978-3-319-18974-1_4)
- Hague Conference on Private International Law (HCCH). (2012). *How to join and implement the Hague Apostille Convention: A brief guide for countries interested in joining the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*. Retrieved from <https://assets.hcch.net/docs/Ocfe4ad6-402d-4a06-b472-43302b31e7d5.pdf>
- Hague Conference on Private International Law (HCCH). (1961). *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*. Retrieved from <https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>
- Hartoyo, B., & Noor, F. M. (2019). The Hague Convention 1961: Solution of foreign public document legalization for Indonesia and ASEAN member countries. *ABC Research Alert*, 7(1), 37-47. <https://doi.org/10.18034/abcra.v7i1.249>
- Irianti, A. A. T., Ashri, M., & Sakharina, I. K. (2019). Role of notary public in increasing the ease of doing business index through the Apostille Convention. *Journal of Economics Business*, 2(1), 1-9. <https://doi.org/10.31014/aior.1992.02.01.61>
- Junaidi, A. H. (2018). Urgensi dan tantangan Indonesia dalam akses Konvensi Apostille. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 7(2), 189-206. <https://doi.org/10.33331/rechtsvinding.v7i2.258>
- Junyu, M. (2020). Notary according to civil law and common law that related strongly with international civil transactions. *Jurnal Akta*, 7(3), 285-292. <https://doi.org/10.30659/akta.v7i3.11279>
- Lee, G. (2020). Legal issues related to blockchain technology — Examples from Korea. In M. Corrales Compagnucci, N. Forgó, T. Kono, S. Teramoto, & E. P. M. Vermeulen (Eds.), *Legal tech and the new sharing economy. Perspectives in law, business and innovation* (pp. 181-198). Springer. [https://doi.org/10.1007/978-981-15-1350-3\\_9](https://doi.org/10.1007/978-981-15-1350-3_9)
- Law No. 24 of 2000 concerning International Treaties. Retrieved from <https://jdih.bumn.go.id/baca/UU%20Nomor%2024%20Tahun%202000.pdf>
- Lubis, I., Murwadi, T., Sukarja, D., & Rosmalinda. (2022). Penetration of international economic law in the development of the cyber notary concept in Indonesia. *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan*, 22(1), 125-138. Retrieved from <https://shariajournals-uinjambi.ac.id/index.php/al-risalah/article/view/868>
- Makarim, E. (2015). Keautentikan dokumen publik elektronik dalam administrasi pemerintahan dan pelayanan publik. *Jurnal Hukum & Pembangunan*, 45(4), 508-570. <https://doi.org/10.21143/jhp.vol45.no4.60>
- Marzuki, P. M. (2016). *Penelitian hukum* (rev. ed.). Jakarta, Indonesia: Kencana Prenada Media Group.
- Mauna, B. (2008). *Hukum internasional: Pengertian, peranan dan fungsi dalam era dinamika global*. Bandung, Indonesia: PT Alumni.



20. Muri, D. P. D., Prayogo, G., & Arif, F. (2018). The rights and obligations of notaries according to Indonesian law concerning notary position. *International Journal of Mechanical Engineering and Technology*, 9(8), 875–881. Retrieved from [https://iaeme.com/MasterAdmin/Journal\\_uploads/IJMET/VOLUME\\_9\\_ISSUE\\_8/IJMET\\_09\\_08\\_094.pdf](https://iaeme.com/MasterAdmin/Journal_uploads/IJMET/VOLUME_9_ISSUE_8/IJMET_09_08_094.pdf)
21. Nonet, P., & Selznick, P. (2016). *Law & society in transition: Toward responsive law*. New York, NY: Routledge. <https://doi.org/10.4324/9780203787540>
22. Penasthika, P. P. (2017). Urgensi akses terhadap Apostille Convention bagi negara-negara anggota Asean dalam menyongsong masyarakat ekonomi Asean 2015, perspektif hukum perdata internasional Indonesia. *Supremasi Hukum: Jurnal Penelitian Hukum*, 24(2), 149–163. <https://doi.org/10.33369/jsh.24.2.149-163>
23. Presidential Regulation No. 2 of 2021 concerning Ratification of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents. Retrieved from <https://cutt.ly/JV602fr>
24. Puaschunder, J. M. (2018). Intergenerational leadership: An extension of contemporary corporate social responsibility models. *Corporate Governance and Organizational Behavior Review*, 2(1), 7–17. [https://doi.org/10.22495/cgobr.v2\\_i1\\_p1](https://doi.org/10.22495/cgobr.v2_i1_p1)
25. Regulation of the Minister of Foreign Affairs of the Republic of Indonesia No. 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs. Retrieved from <https://cutt.ly/tV69VKE>
26. Regulation of the Ministry of Law and Human Rights of the Republic of Indonesia No. 19 of 2020 concerning Legalization Services for Official Signatures on Documents. Retrieved from <https://peraturan.bpk.go.id/Home/Download/167302/19%20Tahun%202020.pdf>
27. Renier, G. J. (2016). *History: Its purpose and method*. Routledge. <https://doi.org/10.4324/9781315628486>
28. Reyes, A. (2014). ASEAN and the Hague Conventions. *Asia Pacific Law Review*, 22(1), 25–44. <https://doi.org/10.1080/10192557.2014.11745914>
29. Roisah, K. (2015). *Hukum perjanjian internasional, Teori dan praktik*. Malang, Indonesia: Setara Press.
30. Sianipar, I. M. J. (2014). Legalisasi Deklarasi Ham ASEAN. *Jurnal Hubungan Internasional*, 3(1), 58–67. <https://doi.org/10.18196/hi.2014.0047.58-67>
31. Soekanto, S., & Mamudji, S. (2015). *Penelitian hukum normative: Suatu tinjauan singkat*. Jakarta, Indonesia: Rajawali Pers.
32. Stedman, L. (2001). “Legalization”: The apostille. *College and University*, 77(1), 47.
33. Suteki, & Taufani, G. (2020). *Metodologi penelitian hukum*. Jakarta, Indonesia: PT Raja Grafindo Persada.
34. Syarif, E. (2021). Electronic land certificates: Its goals and challenges. *Research Horizon*, 1(4), 120–125. Retrieved from <https://journal.lifescifi.com/index.php/RH/article/download/21/16>
35. Tsouka, C. (2015). Simplifying the circulation of public documents in the European Union — Present and future solutions. *ELTE Law Journal*, 2015(2), 43–50. Retrieved from [https://eltelawjournal.hu/wp-content/uploads/2016/10/2015\\_2\\_03\\_Chrysafo-Tsouka.pdf](https://eltelawjournal.hu/wp-content/uploads/2016/10/2015_2_03_Chrysafo-Tsouka.pdf)
36. Utomo, P. (2019). Omnibus law: Dalam perspektif hukum responsif. *Nurani Hukum*, 2(1), 33–41. <https://doi.org/10.51825/nhk.v2i1.8168>
37. Velte, P., & Loy, T. (2018). The impact of auditor rotation, audit firm rotation and non-audit services on earnings quality, audit quality and investor perceptions: A literature review. *Journal of Governance & Regulation*, 7(2), 74–90. [https://doi.org/10.22495/jgr.v7\\_i2\\_p7](https://doi.org/10.22495/jgr.v7_i2_p7)
38. Wiebe, V. (2006). *Maybe you should, yes you must, no you can't: Shifting Standards and practices for assuring document reliability in asylum and withholding of removal cases* (Thomas Legal Studies Research Paper No. 06-18). Retrieved from <https://ssrn.com/abstract=899213>
39. Zablud, P. (2016). *The Apostille Convention in practice — Reflections of a critical friend* (Hague Conference on Private International Law Position Paper). Retrieved from <https://folkman.law/wp-content/uploads/2016/10/b4115653-797a-4c3e-aa12-b062ec7913bd.pdf>