

Indonesia ratified the Apostille Convention, but you will still need to legalize your documents "the old ways"

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On 4 January 2021 Indonesia enacted the Presidential Regulation No. 2 of 2021 on the Ratification of Convention Abolishing the Requirement of Legalization for Foreign Public Documents, which came into force on 5 January 2021 (PR 2/2021). Simplification of the legalization¹ process of foreign public documents is intended to improve public services as well as promote the ease of doing business in Indonesia.

Once the PR 2/2021 became effective, an "Apostille Certificate" issued by the appointed authority in Indonesia, shall be obtained in order to certify the authenticity of signatures and not the content of foreign public documents to be used in other member states of the Apostille Convention. The aforementioned certificate shall affix the title of "Apostille (Convention de La Haye du 5 octobre 1961)" in accordance with the provision under Article 4 of the Apostille Convention.

As of the date of this article, the aforementioned authority who will be issuing the "Apostille Certificate" has yet to be appointed and the implementing regulation that is expected to govern the technicality of such process, has yet to be issued. So for now, you will still need to legalize your documents "the old ways."

What does it mean?

As member of the Hague 1961 Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention) certain public documents (such as documents emanating from an authority or an official connected with the courts or tribunals of the Apostille Convention's member states, including those emanating from a public prosecutor, a clerk of a court, or a process-server (huissier de justice); documents issued by administrative authority;

¹ Legalization means the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature (Art. 2 of the Apostille Convention).

notarial acts; and official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures), are exempted from the legalization process required for the use of foreign public documents that are either sourced or will be used within the member states of Apostille Convention. However, the legalization process is still needed for the following documents:

- a) Documents that are executed by diplomatic or consular agents.
- b) Administrative documents dealing directly with commercial or customs operations.

Any exceptions?

According to Indonesia's declaration on Article 1 of the Apostille Convention, the legalization will still be needed for documents issued by the Indonesian prosecutor's office.

How would it impact privately drawn documents signed outside the jurisdiction of Indonesia?

The notarization and legalization processes for privately drawn documents signed overseas and will be used in Indonesia are still required to be undertaken by the competent authority and by the Indonesian representative at the country of origin until the issuance of the implementing regulation of PR 2/2021, which is expected to set out further clarity on this issue.

When is the implementing regulation set to be issued?

With our ears close to the ground, we understand that the Indonesian government is aiming to issue a ministerial-level regulation in the next nine months to deal with this.

Indonesian government is transforming the law to improve the ease-of-doing-business rating in the country, including PR 2/2021, as well as the Law No. 11 of 2020 on Job Creation (the Omnibus Law) and more than 50 implementing regulations in correspondence to the Omnibus Law. It is aimed that these law reforms will help the government to boost economic growth following the contraction caused by the pandemic.

Opportunities ahead, corporations considering expanding their business to or in Indonesia might need to navigate through the current law reform. Having a balance of progressive and conservative approaches when dealing with business in Indonesia is always a good idea.

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