

LEGALISATION OF DOCUMENTS FOR ACCEPTANCE IN AZERBAIJAN

One of the phenomena that describe the modern world is the international economic integration. Involvement of representatives of one country (jurisdiction) in activities in another country represents a form of an economic integration. Entities, companies, and individuals alike are involved in the integration.

Thanks to its natural resources, Azerbaijan has been a part of the processes of international economic integration for quite some time, but, only the restoration of its state independence enabled the Republic to exercise legal control of the processes. Azerbaijan's involvement in the integration processes makes issues and practical implementation of legal acts and regulations adopted by Azerbaijan and other countries *vis-à-vis* Azerbaijan important.

Legal support of operations of foreigners in a host country implicates the necessity for recognition by the host jurisdiction of documents issued in the foreign country. In relation to the Republic of Azerbaijan, there are several options to certify a foreign document to enable it to be recognised here. For convenience, we refer to all options of recognising foreign documents in a host country as "legalisation".

In essence, legalisation purports to give additional legal force to documents originating in a country other than the country of their final destination. There are three separate procedures of legalisation of foreign documents for their implementation in Azerbaijan. These are: (i) apostille; (ii) legalisation in a consulate of a host country; and (iii) certification of documents pursuant to bi- and multilateral agreements on legal assistance.

Apostille

The word "apostille" has presumably French roots and, in the context of certification of documents, means a stamp with the contents set out according to the requirements of the Hague Convention of 5 October 1961 Abolishing Requirement of Legalisation for Foreign Public Documents (the "**Hague Convention**"). Apostille gives a document a legal form for its use in the territories of countries that recognise such form of legalisation. Azerbaijan participates in the Hague Convention as of 13 May 2004.

Upon Azerbaijan's accession to the Hague Convention, reservations of inapplicability of the Hague Convention as between each of them, on the one hand, and Azerbaijan, on the other, were made by four countries. These countries are the Federal Republic of Germany, the Kingdom of the Netherlands, Hungary, and the Kingdom of Belgium. Reservations of Belgium and Hungary were not accepted as they were filed after expiration of the period to file them. The Netherlands has withdrawn its reservation and, as of 10 August 2010, the Hague Convention is effective as between Azerbaijan and the Netherlands.

Presently, the Hague Convention is ineffective *vis-à-vis* Azerbaijan only between Azerbaijan and Germany, in which case legalisation through certification of documents in a consulate of a host state (consular legalisation) applies.

Consular Legalisation

Consular legalisation is a procedure for certification of documents implemented between countries that do not participate in the Hague Convention as well as in the absence between these countries of bi- and

multilateral agreements on legal assistance. This method of legalisation of documents is rightfully considered the most complex and time-consuming procedure for legalisation of documents.

Consular legalisation is a multi-step procedure that includes involvement of notaries, justice authorities as well as the Ministry of Foreign Affairs of a foreign state and of the consulate of the host state. Apart from the procedure being multistage, involving some substantial financial costs, and time-consuming, often issues arise in practice that are difficult to resolve.

For instance, if there is no consulate of the host state in the foreign country, a foreigner would, in the best case scenario, legalise documents in the consulate of a third country that also represents the host country. Alternatively, a foreigner would need to send the documents to a neighbouring jurisdiction that hosts a consulate of the host country representing the host country *vis-à-vis* the home country of the foreigner.

Often there can be situations where a consulate is being opened in a foreign country, but the consul (ambassador) of the state has not been accredited or the consulate has no physical presence yet in the foreign country. In this case, legalisation of documents in any consulate of a third country or the consulate of Azerbaijan in a third country would be very challenging.

Agreements on Legal Assistance

Certification of documents pursuant to bi- and multilateral agreements on legal assistance is, by far, the simplest and most straightforward form of legalisation. Such legalisation provides that countries-members of international agreements on legal assistance or countries-parties of bilateral agreements on legal assistance simplify the procedures for legalisation of documents.

As an example, countries-members of the Commonwealth of Independent States (CIS) implement the Chisinau Convention of 7 October 2002 on Legal Assistance and Legal Relations over Civil, Family, and Criminal Cases. Pursuant to the provisions of this Convention, a document certified by a relevant state authority or a notary in the foreign state is recognised in the territory of the host state. It is important to note a practical matter: a stamp of the notary or the state authority certifying a document in the foreign state must include a state emblem (coat of arms) of the foreign state.

Bilateral agreements on legal assistance for civil, family, and criminal affairs were concluded between Azerbaijan and the countries such as Turkey, Latvia, and many CIS member-countries.

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