



**MINISTRY OF FOREIGN AFFAIRS OF THE KINGDOM OF THE NETHERLANDS  
THE HAGUE**

**CONVENTION ABOLISHING THE REQUIREMENT OF LEGALISATION  
FOR FOREIGN PUBLIC DOCUMENTS  
(The Hague, 5 October 1961)**

Notification pursuant to Article 15 of the Convention

**DECLARATION**

**Spain, 22-04-2016**

The Embassy of Spain presents its compliments to the Ministry of Foreign Affairs of the Netherlands and with reference to the latter's Note Verbale MINBUZA-2016.213921 of 14 April 2016, in reply to this Embassy's Note Verbale 25/16 of 1 April 2016, the Embassy of Spain wishes to make the following clarifications and requests:

As stated during the recent meetings of the Permanent Court of Arbitration, it is the view of Spain, and many other States, that the question of Palestine and that of the territory of Kosovo are not the same.

The Embassy of Spain kindly reminds the Ministry of Foreign Affairs of the Netherlands that at the 193<sup>th</sup> session of the Administrative Council of the Permanent Court of Arbitration on 4 January 2016, the Presidency of the Administrative Council, as well as the Permanent Bureau of the Conference, agreed to put under review the submission of the instrument of accession of Palestine and the territory of Kosovo to the 1907 Convention for the pacific settlement of international disputes until the States Parties would take an appropriate decision on the matter.

The Embassy of Spain appreciates the written submission of the statement delivered by the depositary during the 194<sup>th</sup> meeting of the Administrative Council of the Permanent Court of Arbitration, and fully agrees with its last paragraph stating that "*the Netherlands, in its capacity as depositary, has no stance on statehood.*" Therefore, the Netherlands rightly considers that "*it is for the individual Contracting States of the 1907 Convention to decide on matters of statehood, eligibility and accession*". This is precisely the reason why Spain has repeatedly reminded the depositary that it is up to the Contracting States and not to the depositary to adopt a decision before accepting the instrument of accession of a territory, notably if its statehood is controversial.

Accordingly, Spain stresses the fact that the Council on General Affairs and Policy of The Hague Conference on Private International Law decided at the meeting held on 15-17 March 2016 (paragraph 4 of the conclusions and recommendations) to bring to the attention of all Contracting Parties to the Convention concerned any matters, including the issue of statehood, following the deposit of an instrument of ratification, approval or accession when the depositary receives an objection from a Contracting State, in accordance with the Vienna Convention on the Law of Treaties, the UN doctrine and depositary practice by other International Organizations in similar situations and in compliance with the decision previously adopted by the above mentioned Administrative Council of the Permanent Court of Arbitration.

In the same vein, in relation with the Apostille's Convention, Spain has repeatedly requested the depositary to take a decision similar to the one adopted by the Permanent Court of Arbitration.

Since at the last meeting of the Council on General Affairs of the Hague Conference no final decision about the territory of Kosovo could be taken, Spain requests to convene a meeting of all Contracting Parties before 15 May 2016, when the deadline for submission of objections under Article 12 of the Apostille Convention expires, to give the possibility to all Contracting Parties to take the appropriate decision.

Alternatively, and taking into consideration the limited time available and the difficulties to convene the meeting in such short notice, the Embassy of Spain requests the Ministry of Foreign Affairs of the Netherlands to suspend the instrument of accession of the territory of Kosovo to the Apostille Convention until the Contracting Parties of the Convention may adopt a decision.

Should this not be the case, in the opinion of Spain, the Ministry of Foreign Affairs of the Netherlands would go far beyond its technical duties as depositary and would act contrary to the decisions adopted by other international organizations and depositary States in similar situations. In addition to the decision of the Administrative Council of the Permanent Court of Arbitration, it is also important to bear in mind the decision of the General Conference of UNESCO to dismiss the application for membership of the territory of Kosovo and, more recently, the decision of the Executive Committee of the International Organisation of Vine and Wine (OIV) adopted by consensus on 16<sup>th</sup> April 2016 to postpone the process of accession of the territory of Kosovo *"waiting for a decision of the United Nations"*.

The Embassy of Spain would highly appreciate that the Ministry of Foreign Affairs of the Netherlands brings this Note Verbale to the attention of the other Contracting States of the Apostille Convention.

The Embassy of the Kingdom of Spain avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.



## **DEPOSITARY COMMUNICATION**

The Ministry of Foreign Affairs of the Kingdom of the Netherlands, acting in its capacity as depositary, presents its compliments to the Embassy of the Kingdom of Spain and has the honour to acknowledge receipt on 22 April 2016 of the Embassy's Note No. 32/16 of the same date, in which Note Spain wishes to make several clarifications and requests with regard to the Convention abolishing the Requirement of Legalisation for Foreign Public Documents, concluded at The Hague on 5 October 1961.

In its Note, Spain requests "to convene a meeting of all Contracting Parties before 15 May 2016, when the deadline for submission of objections under Article 12 of the Apostille Convention expires, to give the possibility to all Contracting Parties to take the appropriate decision".

In accordance with Article 77, paragraph 2, of the Vienna Convention on the Law of Treaties, in the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

As convening a meeting of the Contracting States is not one of the functions of the depositary mentioned in the Vienna Convention on the Law of Treaties, the Ministry would like to suggest that the Embassy directs its request to convene a meeting of the Contracting States to the Secretary General of the Permanent Bureau of the Hague Conference on Private International Law.

The Ministry of Foreign Affairs will, in accordance with Article 15 of the Convention, bring the Embassy's Note No. 32/16 together with this note to the attention of the Contracting States to the aforementioned Convention.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands, acting in its capacity as depositary, avails itself of this opportunity to renew to the Embassy of the Kingdom of Spain the assurances of its highest consideration.

The Hague, 28 April 2016

The Depositary Notifications are accessible on the website of the Ministry of Foreign Affairs of the Kingdom of the Netherlands at <https://treatydatabase.overheid.nl>

XII Legalisation No. 23/2016

