



**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

Serbia, 26-04-2016

The Embassy of the Republic of Serbia to the Kingdom of the Netherlands presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands as Depositary of the 1961 Convention Abolishing the Requirement of Legislation for Foreign Public Documents, and with reference to the Note of the Embassy of the Kingdom of Spain no. 25/16 of 1 April 2016 and the Depositary response to that Note published on the Treaty Database on 15 April 2016 under no. 19/2016, has the honour to inform that Serbia aligns itself with the declaration of Spain.

In the view of the Republic of Serbia, the duty of a depositary in the event of any difference appearing between a State and the depositary as to the performance of the latter's functions cannot be performed by a mere electronic notification of that difference on the Treaty Database. "Bringing the matter to the attention of all Contracting States to the Convention concerned", as formulated by the Council of General Affairs and Policy of the Hague Conference on Private International Law in its Conclusions & Recommendations adopted on 17 March 2016 in accordance with Article 77, paragraph 2, of the 1969 Vienna Convention on the Law of Treaties, presumes that the Contracting States must be asked for their respective positions concerning the matter of difference.

Otherwise, in the absence of any decision adopted by the Contracting States of the 1961 Convention Abolishing the Requirement of Legislation for Foreign Public Documents on the controversial question of Kosovo's statehood, it seems that the exclusive position of the Depositary State to that highly political issue is decisive. Such a procedural approach, in the view of the Embassy of the Republic of Serbia, exceeds the duties and power of a depositary. It is also contrary to the well-established practice of the Treaty Section of the UN Office of Legal Affairs: in its Summary of Practice, the UN Depositary declares that if he were to receive an instrument of accession from any area of controversial statehood, "he would not wish to determine, on his own initiative, the highly political and controversial question of whether or not the areas whose status was unclear were States; [such] a determination, he believed, would fall outside his competence." For that reason, the reception of the instrument of accession of the Provisional Institutions of Self-Government of Kosovo has no legal validity.

The Embassy of the Republic of Serbia appreciates the intention declared by the Ministry of Foreign Affairs of the Kingdom of the Netherlands to perform the Depositary functions "on the basis of complete impartiality and thus in full conformity with Articles 76 and 77 of the Vienna Convention", and in that regard, invites the Depositary to demonstrate its impartiality by finding an effective way to bring the matter of difference to the attention of all Contracting States.

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>

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The Embassy of the Republic of Serbia 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.

The Hague, 12 May 2016

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