



**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, 18-12-2015

By its note no. 839/2015 of 6 November 2015, the Embassy of the Republic of Serbia conveyed the view of its Government that Kosovo could not be treated as a State pursuant to Article 12 of the 1961 Convention Abolishing the Requirement of Legislation for Foreign Public Documents (hereinafter the Apostille Convention), and for that reason, it requested the Ministry of Foreign Affairs of the Netherlands, as the depositary of the Convention, not to allow the deposition of the instrument of accession by Kosovo's authorities. Alternatively, it requested that the deposition is suspended until the proper decision of the organs of the Hague Conference on Private International Law is adopted. By its note no. 916/2015 of 28 November 2015, the Embassy further explained its position, emphasizing that the issue of statehood of an international subject claiming accession to the Convention has a preliminary character, because only States are capable to accede. The answer to that issue should precede the act of deposition of the instrument of accession and, even more, it should precede the stage of raising objections as an opportunity for the Contracting States pursuant to Article 12, paragraph 2, of the Convention.

Yet, the Ministry of Foreign Affairs, by its note verbale no. 2015.660990 of 2 December 2015, declared that Serbia raised an objection to the accession of Kosovo, treating Serbia's note of 6 November 2015 as the objection in accordance with Article 12, second paragraph, of the Convention. The substance of Serbia's note of 6 November 2015 has also been included into the Notification of 11 December 2015 pursuant to Article 15 of the Convention, available on the website of the depositary. However, a logical question arises how it could be possible that a State raised an objection pursuant to Article 12, second paragraph, of the Convention before the deposition of the instrument of accession of a new Contracting State took place. Serbia actually requested the depositary to bring the preliminary question of Kosovo's disputed statehood to the attention of the Contracting States of the Apostille Convention and the Council on General Affairs and Policy of the Hague Conference on Private International Law as the competent organ of the international organization concerned. By refusing to perform its function in the suggested way, the depositary, in the view of Serbia, has breached its neutrality.

The Republic of Serbia will continue insisting on its position in the further communication to the Council on General Affairs and Policy, both regarding the incapability of Kosovo to be a Contracting State of the 1961 Apostille Convention and regarding the unacceptable procedure of its accession.



OBJECTION

Serbia, 23-12-2015

Serbia firmly remains at its position expressed in the above-mentioned notes concerning the incapability of Kosovo to be a Contracting State of the Convention because it is not a sovereign State, as well as concerning the inappropriate procedure of its accession. It will continue insisting on its position in the further communication to the Council of General Affairs and Policy of the Hague Conference on Private International Law.

Nevertheless, in order to make its position clear and doubtless vis-à-vis the functions of the depositary, Serbia hereby formally declares that it does not view itself bound by the Convention with regard to Kosovo, whatever a decision of the Council of General Affairs and Policy is adopted.

The Hague, 29 January 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. 04/2016