

TO: Clients and Friends of the Firm

FR: Frishberg & Partners

RE: No More Legalization

## **I. Introduction**

On January 10, 2002, the Ukrainian Parliament passed Law No. 2933-III (hereinafter the “Law”), according to which Ukraine acceded to the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (hereinafter the “Convention”). This law came into force on December 22, 2003, removing the need to legalize both foreign documents destined for official use on the territory of Ukraine and Ukrainian documents destined for official use in the countries which are signatories to the Convention (“Contracting States”). This fortunate event signifies the elimination of the requirement to send official public documents to the Consular section of the Ukrainian Embassy in the country of issuance for legalization – a process that often proved to be time-consuming and frustrating.

## **II. Discussion**

Article 12 of the Convention provides for a special six-month period following the deposition of the instrument of accession with the Ministry of Foreign Affairs of the Netherlands by the acceding State during which any of the Contracting States may raise an objection with respect to such accession. On the sixtieth day after expiration of the period of said six months, the Convention enters into force and effect between the acceding State and the States, which did not raise any objections to its accession.

On April 23, 2003, the Ministry of Foreign Affairs of the Netherlands, which is a depository for the Convention and related documents, informed the Contracting States of the receipt from Ukraine of the accession instrument with respect to the Convention.

Therefore, for Ukraine the above-mentioned six-month period started as of April 23, 2003 and expired on October 23, 2003. During that time, only Germany and Belgium expressed their objections; however, since that time Belgium has recognized Ukraine as a member to the Convention. According to the above-mentioned Article 12 of the Convention, this means that documents originating from Ukraine and bearing an Apostille will not be accepted on the territories of Germany. This also means that the currently applicable legalization procedure will remain effective in Germany.

The Convention became effective for Ukraine as of December 22, 2003. Its rules apply to relations

with the Contracting States that did not express any objections with respect to Ukraine's accession to the Convention. Those interested in viewing the list of the Contracting States, please refer to the text of the Convention provided on the Internet site of the Hague Conference on Private International Law ([www.hcch.net](http://www.hcch.net)).

As of December 22, 2003, documents, which must be presented in the territory of a Contracting State listed in the annex to the Convention, are exempted from consular legalization. For purposes of the Convention, legalization means only the formality by which the diplomatic or consular agents of the country in which the document must be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

The only formality that will be required with the application of the Convention is the addition of an Apostille seal by the competent authority of Ukraine to the document(s) that must be presented in the territory of the Contracting States. By the same token, public documents of the Contracting States, which are presented on the territory of Ukraine for official use (such as for purposes of registration matters or powers of attorney), should bear an Apostille stamp issued by the competent authority of the Contracting State in question (usually, the Ministry of Foreign Affairs or State Department).

The Convention deems the following to be public documents:

- a) documents emanating from an authority or an official connected with the courts or tribunals of a Contracting State, including those emanating from a public prosecutor, a court clerk or a process-server ("huissier de justice");
- b) administrative documents;
- c) acts of notaries; and
- d) official certifications 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 notary authentications of signatures.

An Apostille is a special certificate (stamp), which is placed upon public documents emanating from Contracting States. The said stamp certifies the authenticity of the signature(s) on a particular document, the capacity in which the person signing the document has acted and, where appropriate, the identity of any seals or stamps thereon.

.....  
: If you wish to receive the entire article, please  
: contact us at: [office@frishberg.com.ua](mailto:office@frishberg.com.ua).  
:  
: Thank you.  
:.....