



## Client Alert May 2022

### New Regulation on Legalization of Public Documents

#### Minister of Law and Human Rights Regulation Number 6 of 2022 on Apostille Legalization Services in Public Documents (“MoLHR Regulation 6/2022”)

##### Overview

On January 5, 2021, our President has issued Presidential Regulation Number 2 of 2021 on Validation of Convention Abolishing the Requirement of Legalization for Foreign Public Documents (“**Presidential Regulation 2/2021**”). The Convention Abolishing the Requirement of Legalization for Foreign Public Documents (“**Apostille Convention**”) itself was born on 5 October 1961 and as of April 2022, 122 out of 193 countries are contracting states of Apostille Convention. The accession of Apostille Convention is expected to improve Republic of Indonesia’s Ease of Doing Business rank as President Joko Widodo made it his goal to put Indonesia in 40<sup>th</sup> place in the ranking.

Following up on Presidential Regulation 2/2021, Indonesian Minister of Law and Human Rights (“**MoLHR**”) issued Minister of Law and Human Rights Regulation Number 6 of 2022 on Apostille Legalization Services in Public Documents (“**MoLHR Regulation 6/2022**”) on January 26, 2022 which will come into force on 4 June 2022.

Under the MoLHR Regulation 6/2022, MoLHR through Director General of General Law Administration would be the authority who is competent to issue Apostille certificate. Apostille legalization (“**Apostille**”) is an act to certify the official’s signature, validation of stamp, and/or official seal in the requested documents based on verification. It is noteworthy that the enactment of MoLHR Regulation 6/2022 will ease the legalization process of Indonesian documents used in overseas and/or foreign documents used in Indonesia.

MoLHR Regulation 6/2022 defines document as public document in the form of a written letter or printed signed by the official who authorized as evidence and/or affixed with official stamp and/or seal. Furthermore, documents affected by MoLHR Regulation 6/2022 are as follows:

- (a) Documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server (*huissier de justice*);
- (b) Administrative documents and notarial acts;
- (c) Official certificates 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 notarial authentications of signatures.

It shall not apply to:

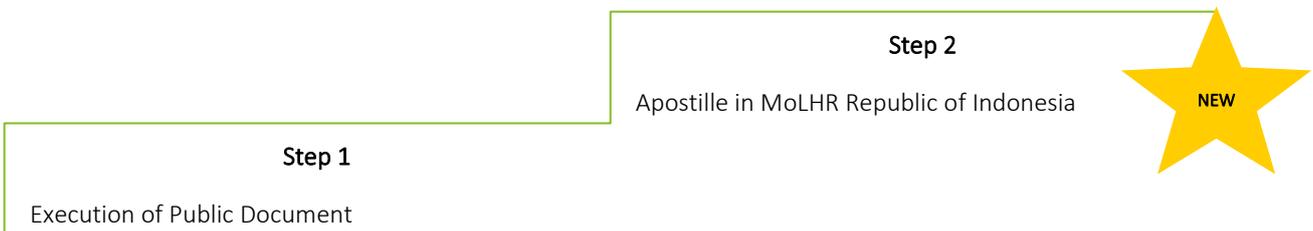
- (a) Documents executed by diplomatic or consular agents;
- (b) Administrative documents dealing directly with commercial or customs operations;
- (c) Documents issued by the prosecutor office as the prosecuting body in the Republic of Indonesia.

The Apostille request itself shall be submitted electronically to the MoLHR through Director General of General Law Administration by filling out the application form on the official website of the Directorate General of General Law Administration. Whereas more details regarding document types shall be determined by MoLHR.

**Public Document Legalization process prior to the enactment of MoLHR Regulation 6/2022**



**Public Document Legalisation Chain after MoLHR Regulation 6/2022**



Full Indonesian language text of MoLHR Regulation 6/2022 can be found through this link: [bn98-2022.pdf \(peraturan.go.id\)](https://peraturan.go.id/bn98-2022.pdf)

## Potential Issues Surrounding the Implementation of MoLHR Regulation 6/2022

- (i) Despite the fact that MoLHR Regulation 6/2022 has provided types of document that could be apostilled, we still have to wait further MoLHR implementing regulations regarding more details of document types that could be apostilled.
- (ii) Currently, there is no complete official signature database available on Directorate General of General Law Administration. In regard to this, Apostille application could be returned to the applicant and the applicant will be provided with signature specimen form to be completed. The applicant will have to appear before the official who has signed the public document, asking the official to fill out the form and lastly the applicant will have to submit the signature specimen form to Directorate General of General Law Administration within 7 (seven) calendar days.
- (iii) Even though the submission of Apostille application done electronically, the Apostille certificate could only be obtained physically at the Apostille service counter at MoLHR headquarters or regional office according to the applicant's choice.
- (iv) Until now, there have been regulations governing document legalization procedures in Indonesia, as follows:
  - a) Minister of Foreign Affairs Regulation Number 09/A/KP/XII/2006/01;
  - b) Minister of Foreign Affairs Regulation Number 13 of 2019; and
  - c) MoLHR Regulation Number 19 of 2020.which not been revoked either by MoLHR Regulation 6/2022 or by Presidential Regulation 2/2021.
- (v) There are still legalization requirements for the use of the foreign public documents in the territory of the Republic of Indonesia, such as the one regulated under Article 13 paragraph 4 letter c of BPOM Regulation Number 26 of 2018, that should be revoked to align it with MoLHR Regulation 6/2022.

## Key Takeaways

In view of the foregoing, some of the key takeaways which may be taken for consideration include:

- (i) Apostille has shortened the steps of legalization significantly. Apostilled foreign public document from contracting state of Apostille Convention could be used in Indonesia without prior legalization in Indonesia Embassy or Consulate.
- (ii) Apostille only certifies and verifies the authenticity of the official's signature and the capacity of the person who has signed the public document, and validate stamp, and/or official seal in the requested documents. It will not verify the content of the document. The Apostille applicant is fully responsible for the truth of Apostille application submitted and the use of Apostille document.
- (iii) Verification of the apostille application by the Directorate General of General Law Administration shall take no later than 3 (three) working days after the application received. In the event that the Apostille application is rejected; the applicant could re-apply the Apostille application.

**For further information and/or inquiries related to this alert, you may contact:**

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