



**REPUBLIK ÖSTERREICH  
BUNDESMINISTERIUM FÜR JUSTIZ**

32.053/6-I.11/2003

Hague Conference  
on Private International Law

Vienna, 16. October 2003

Ref: Hague Convention of 5 October 1961 abolishing the requirement of legalisation for foreign public documents;  
Questionnaire; comments by Austria

Dear Madam/Sir,

With reference to your questionnaire relating to the Hague Convention of 5 October 1961 abolishing the requirement of legalisation for foreign public documents the Ministry of Justice of the Republic Austria forwards the following comments:

1. In practice, what are the kinds of public documents (e.g., commercial documents, birth certificates) for which the competent authority(ies) in your state is (are) most commonly called upon to issue apostilles?

Most frequently commercial documents drawn up by a public notary are presented in order to request the issuance of an apostille. Very often the competent authorities are also called upon to issue apostilles for documents granting power of attorney legalized by a notary.

2. Do you have statistics at your disposal with respect to the number of apostilles issued by your competent authorities (by type of document, if possible)?

There are statistics available, which are however not itemised with regard to the type of document. In Austria 16 regional courts are competent for the issuance of apostilles with regard to judicial or notarial documents. Administrative documents are certified by the competent Chief Executive Office in each of the 9 provinces of Austria.

For example, in 2002 within the circuit of the Vienna Regional Court (competent for the issuance of apostilles with regard to all judicial and notarial documents produced within the Viennese area) 3.757 apostilles were issued. Within the same period the Vienna Chief Executive Office (competent for the issuance of apostilles with regard to administrative documents produced within the Viennese area) issued 536 apostilles.

3. Pursuant to the application by the European Community for membership of the Hague Conference, it will need to be determined to what extent the Hague Conventions, and in particular the "Apostille" Convention, should or could be extended to regional economic-integration organizations. Do you consider that it would be necessary or appropriate to adopt a protocol favouring the adoption of a clause similar to that of Article 18 of the Hague Convention on the law applicable to certain rights in respect of securities held with an intermediary?

The adoption of a protocol favouring the adoption of a clause allowing an accession of regional economic-integration organizations, which have competence over matters governed by the "Apostille-Convention", to this legal instrument is in line with the position already taken in previous negotiations within the Hague Conference. No objections are raised with regard to the introduction of a similar clause concerning the "Apostille" Convention.

4. Would you be in favour of the adoption of a protocol designed to enable a State with several units to extend the application of the Convention to one or several of its territorial units?

To restrict the application of the Convention to one or several units of a State could render the cross-border utilisation of documents, which have to be certified in accordance with the rules of the Hague Convention more difficult and cumbersome. In order to ensure clarity with regard to the precise territories to which the Convention applies, the list of member States would have to indicate in detail the area of application. In special cases it might be difficult to determine whether the place where the apostille was issued (or has to be issued) is situated within this area.

5. Can you specify the price charged by the competent authorities in your country for issuance of the apostille?

The price charged by the Austrian competent regional courts for the issuance of the apostille with regard to judicial and notarial documents is 2,90 Euros. The Vienna Chief Executive Office charges 16,27 Euros.

6. In practice, have you encountered difficulties connected with the formal requirements provided for under the Convention?

No.

7. Practical information relating to the methods used to affix the apostille would be very useful. In particular, how do you proceed when the public document to receive the apostille has several pages?

A public document to receive the apostille should be stitched together inextricably by the authority executing the public document. The apostille will then either be placed on the document itself (at the last page) or on an "allonge".

8. Is consultation of the register or card index for verification requested frequently?

The figure concerning applications filed with the competent regional courts for consultation of the register averages out at 1 per month (for each authority). Verification whether the particulars in the certificate placed on an administrative document correspond with those in the register is only requested by way of an exception.

9. Do you use signatures by mechanical means, stamp and/or electronics, to fill in apostilles? If so, have security measures been taken to avoid any fraud? If so, which?

Due to the advanced techniques of reproduction apostilles are - for safety reasons - signed personally. Neither signatures by mechanical means, nor stamp, nor electronics are used. The signature is normally accompanied by a stamp indicating the name of the signing person in block letters.

10. Do you use an electronic medium to keep the "register or card index" provided for under Article 7 of the Convention? If so, have security measures been taken to avoid any fraud? If so, which?

No, the register is kept in traditional book-form. As 85 to 90 % of the apostilles are placed on the document itself and signed personally, the use of an electronic medium to keep the register or card index would in these cases rather impede an efficient work flow. Only in cases where the apostille is placed on an "allonge" the use of an electronic medium seems to be preferable. The data fed into the computer in order to keep the register or card index may then simultaneously be used for the production of a computerbased apostille. This computer printout may be attached as "allonge" to the document.

10. Do you issue apostilles for electronic documents? If so, can you provide us with details of the manner of that issuance and if not, do you think this possibility can be contemplated?

No, for safety reasons apostilles for electronic documents are not issued. There is no intention to introduce this possibility for the near future.

We hope this information is useful for you and remain at your disposal for further questions.

Yours sincerely

(Dr. Ihor Tarko) eh.