

QUESTIONNAIRE

On the 1961 Hague Apostille Convention

Response of the United States of America

In the United States, apostilles are issued by the Department of State for federal documents, by the clerks of each of the U.S. district courts and courts of appeal for federal judicial documents, and by the secretaries of state of each of the U.S. states and territories for documents of state origin.

For purposes of this questionnaire we had information reported from 22 states and from the Department of State Office of Authentications. This is regrettably not therefore a complete picture of practice under the Convention in the United States. It does not take into account judicial documents, and the reported statistics represent only a portion of the existing cases.

Attached to this submission is the report of a survey done of the state secretary of state offices that provides more details of the picture in those states.

1. Apostilles are commonly issued for various documents related to adoption cases, for commercial documents, for official documents related to vital statistics, and for court records, land records, school documents, and patent applications.
2. Among the 22 states reporting, 347,654 apostilles were issued last year. Numbers range from 400 apostilles per year in North Dakota to 64,400 per year in California. The U.S. Department of State issued 5,580 apostilles during the fiscal year October 1, 2002 - September 30, 2003. Information is not available about numbers by type of document.
3. We have no view on the question of a possible protocol permitting regional economic integration organizations to become party to the Convention. We are unaware of the specific reasons for which the European Union might seek such a protocol. The question of preparing protocols for existing conventions should be considered on a convention-by-convention basis.

4. It is difficult to reply to the question about a possible protocol to permit application of the Convention to one of more national territorial units in a country. We are aware that Canada would find it easier to accede to the Convention on a province-by-province basis, and currently it is not a party. We are not aware, however, of any request by Canada or some other state member of the Hague Conference for such a protocol.
5. Fees range in the states from \$2.00 (Alaska) to \$25.00 (New Jersey). The two states that charge \$25.00 reduce the amount for adoption cases. The U.S. Department of State charges \$6.00.
6. We have not encountered difficulties with apostilles issued by the Department of State, which are still prepared by traditional methods, but apostilles issued by the state secretary of state offices are sometimes arbitrarily rejected by foreign authorities. U.S. states, which are under tremendous budget constraints, are increasingly modernizing and making more efficient their operations. This leads inevitably to the use of computer-generated apostilles, seals, and signatures. Apostilles are typically attached by staple. Although the formal requirements of the convention are still met thereby, some foreign judicial and administrative authorities have rejected these apostilles, which has caused considerable distress to applicants for marriage, adoption, property transactions, etc.
7. The U.S. Department of State prints each apostille on an allonge, and completes it with impressed seal and original signature. If the document has several pages it is secured by grommet or a hole is punched and a ribbon tied to secure it, and the allonge is then attached to the first page by grommet.

State secretary of state offices have a variety of practices for preparing an apostille. Many attach an allonge by staple only to the page for which the signature is to be confirmed, but do not make an effort permanently to secure all the pages of the document. We are not aware of any authority in the United States that stamps or glues an apostille onto the document to be authenticated.

8. Most registers are kept entirely on electronic media. Despite the fact that rejections of apostilles of state secretaries of state occur from time to time, requests to verify an apostille through the register or card index are almost unknown.
9. As indicated in the answer to question 7 above, many state secretary of state offices use computer-generated laser-printed apostilles, seals, and signatures. All use limited access/secure systems for electronically generating the seals and signatures. Many add other security methods, including security paper, embossed foil seals, hand-embossed seals, machine signatures, and original signatures.
10. Most authorities, including the U.S. Department of State, keep only electronic registers. Some keep electronic and paper registries.
11. We are not aware of any authority that issues apostilles for electronic documents, though this is something to consider for the future. Electronic notarization is occurring now in only a few test locations.