

Questionnaire for Contracting Parties to the 1961 Apostille Convention



United States of America

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Questionnaire for Contracting Parties to the 1961 Apostille Convention

Please note that not all questions require a response from all Contracting Parties; some are directed only at Contracting Parties that have not implemented one or both components of the e-APP. Likewise, other questions are addressed solely to those who have implemented and operate the e-APP.

I. Implementation of the e-APP

The questions below are intended to identify all Contracting Parties that have implemented one or both components of the e-APP (*i.e.*, those that issue e-Apostilles and/or operate an e-Register). Likewise, for Contracting Parties that have implemented neither component, the questions seek to clarify the stage they have reached in considering the e-APP, as well as the challenges that may be preventing its implementation.

A. First component: e-Apostille

1 Does your State issue e-Apostilles?

☒ Yes, e-Apostilles have been issued since 2023. *In a test pilot, the state of Kansas issued the first e-Apostille in 2007.*

☐ No, e-Apostilles have not been implemented yet.

If not, please specify:

☐ We are studying the use of e-Apostilles and plan to implement the e-Apostille component.
Please specify, if relevant: N/A

☐ We are not currently planning to implement the e-Apostille component.

For Parties that answered “No, e-Apostilles have not been implemented yet”, please answer question 1.1

1.1 What challenges is your State facing that may prevent it from implementing e-Apostilles?

More than one answer is possible.

☐ Internal law limitations.

☐ Judicial or administrative structure.

☐ Implementation challenges (e.g., lack of resources, lack of infrastructure).

☐ Cost.

☐ System interoperability / compatibility.

☐ Security concerns.

☐ Other – please specify: N/A

If relevant, please explain any of the options above: N/A

2 Regardless of whether your State currently issues e-Apostilles, are your receiving agencies equipped or able to accept and process incoming e-Apostilles (*i.e.*, e-Apostilles issued by other Contracting Parties)?

☒ Yes, all e-Apostilles can be processed.

☐ Yes, but on certain conditions – please specify: N/A

☐ No – please explain why not: N/A

☐ Unknown.

Please explain further any of the items above, if relevant: N/A

B. Second component: e-Register

3 Does your State maintain an e-Register?

☒ Yes, an e-Register has been implemented on *Various dates in multiple jurisdictions*.

If yes, please indicate any specific features of your e-Register (e.g., whether your State maintains multiple e-Registers, different types of e-Registers for various Competent Authorities, or separate registers for paper and e-Apostilles, etc.): *Multiple e-Registers maintained by different Competent Authorities*

☐ No, an e-Register has not been implemented yet.

If not, please specify:

☐ We are studying the use of an e-Register and plan to implement the e-Register component.

Please specify, if relevant: N/A

☐ We are not currently planning to implement the e-Register component.

For Parties that answered “No, an e-Register has not been implemented yet”, please answer question 3.1:

3.1 What challenges is your State facing that may prevent it from implementing an e-Register?

More than one answer is possible.

☐ Internal law limitations.

☐ Judicial or administrative structure.

☐ Implementation challenges (e.g., lack of resources, lack of infrastructure).

☐ Cost.

☐ System interoperability / compatibility.

☐ Security concerns.

☐ Other – please specify: N/A

If relevant, please explain any of the options above: N/A

II. Technology and the e-APP (including the use of digital signatures)

The questions below are intended to further understand how Contracting Parties recognise and use electronic or digital signatures, and how electronic public documents interact with the Apostille process, particularly in cases where the e-Apostille component has not yet been implemented.

For the purposes of this questionnaire, an **electronic signature** is a name, initial, mark or symbol that is affixed to, or logically associated with, a document or other record in electronic form, to evidence the signing of that document or record. A **digital signature** is a special type of electronic signature which works with encryption technology and can be authenticated using a digital certificate.

4 Under your internal law, for your own domestic public documents, do you recognise electronic / digital signatures as functionally equivalent to handwritten (wet) signatures (i.e., allowing your public documents to be signed electronically)?

☒ Yes, please specify (including whether there are any requirements or technical standards for using electronic / digital signatures): *Laws that recognise electronic/digital signatures do not require any particular technology.*

☐ No.

☐ Other – for example, electronic signatures are only permissible for certain categories of documents. Please specify: N/A

☐ Unknown.

For Parties that answered Q.4 affirmatively, please answer question 4.1:

4.1 For incoming electronic public documents (i.e., those issued by other Contracting Parties), does your State impose specific requirements or technical standards for accepting electronic / digital signatures?

- ☐ Yes – please specify the applicable requirements or technical standards: N/A
☒ No.
☐ Other – please specify: N/A
☐ Unknown.

5 Under your internal law, do foreign electronic public documents have the same probative value as paper public documents?

- ☒ Yes – Please specify (including whether your receiving agencies are able to accept and process incoming electronic public documents): *The law and judicial rules of evidence do not distinguish between paper and electronic documents.*
☐ No.
☐ It depends – please specify: N/A
☐ Other – please specify: N/A
☐ Unknown.

If relevant, please explain further any of the options above: N/A

6 Under your internal law, are public documents executed, or able to be executed, in electronic form (whether or not they are to be used abroad under the 1961 Apostille Convention)?

- ☐ Yes, all public documents are executed or able to be executed in electronic form.
☒ Yes, certain categories of public documents are executed or able to be executed in electronic form.
☐ No, public documents are never executed in electronic form.

If relevant, please explain any of the options above: *While there generally are no legal barriers to issuing public documents in electronic form, practices in our federal system may vary from jurisdiction to jurisdiction and may vary on the nature of the document. For example, a state may issue certain documents in electronic form whereas others, such as vital records, may be issued in paper form. Practices also include the issuance of both a paper and electronic version of a document at the same time.*

For Parties that answered affirmatively and execute, or are able to execute, public documents in electronic form, please answer question 6.1:

6.1 Can electronic public documents issued in your State be verified by foreign receiving agencies?

- ☒ Yes – please specify how they can be verified: *Under the Convention apostillized documents may be verified through the register. Certain documents signed electronically by also be verified through the technology that issued them using encryption and certificates.*
☐ No.
☐ Other – please specify: N/A
☐ Unknown.

6.2 If your State executes, or is able to execute, electronic public documents but has not implemented the e-Apostille component, how is an Apostille issued for such electronic documents?

- ☐ The public document must first be executed in paper format.
☐ A hard copy of the electronic public document is printed and a paper Apostille is issued and attached.

☒ Other – please specify: *The e-Apostille component has not been universally implemented in every jurisdiction. As a practical matter in jurisdictions that have not implemented, a hard copy of the public document is generally printed and the Apostille is attached.*

III. Issuance of e-Apostilles

The questions below are intended to identify any requirements or conditions that Contracting Parties may impose for issuing e-Apostilles, as well as to understand the procedures followed by the Competent Authorities and how the underlying public document is treated.

- 7 Does your State have any requirements, conditions, or limitations for issuing e-Apostilles? If so, please describe them (e.g., requirements concerning the identity of the applicant; the use of specific platforms or digital solutions for applications; the nature or the form of the underlying public document; etc.).

☐ Yes – please specify: N/A

☒ No.

Please explain further any of the items above, if relevant: N/A

- 8 Under your internal law, which of the following formats of public documents are eligible for the issuance of e-Apostilles?

More than one answer is possible.

☒ Electronic public documents.

☒ Paper public documents that have been scanned by a public official.

☐ Paper public documents that have been scanned by applicants.

If relevant, please explain any of the options above: N/A

- 9 Does your State issue paper Apostilles alongside e-Apostilles?

☒ Yes.

☐ No, we only issue e-Apostilles.

- 9.1 If yes, please indicate the proportion of e-Apostilles issued in comparison to paper Apostilles. If known, provide any specific reasons that may explain the difference in proportions.

E-Apostilles are a small minority of the Apostilles issued because the e-Apostille component has only been implemented in a minority of jurisdictions.

- 9.2 If yes, what are the criteria for issuing paper Apostilles versus e-Apostilles (e.g., is the nature or the form of the underlying public document decisive, or can applicants choose between the two formats)?

Varied through the multiple jurisdictions that have implemented the e-Apostille component.

- 9.3 If not, how does your State issue e-Apostilles for paper-based documents?

N/A

- 10 When issuing e-Apostilles for electronic public documents, does your State preserve the electronic / digital signature of the underlying document?

☒ Yes, the electronic / digital signature is preserved. Please explain how this is done: N/A

☒ No, only the electronic / digital signature of the e-Apostille is preserved.

If relevant, please explain any of the options above: *Both yes and no depending upon the jurisdiction and the technology used in implementing the e-Apostille component.*

- 11 When issuing e-Apostilles, how does your Competent Authority complete the standard informational items on the Certificate? Please indicate whether there are any differences compared with issuing paper Apostilles or authenticating paper public documents.

☒ The Competent Authority completes all standard informational items in the same manner as when issuing paper Apostilles or authenticating paper public documents.

☒ The Competent Authority completes the items differently as follows:

- Items 2-4: *Both methods of completion are applicable depending on the jurisdiction and the technology used in implementing the e-Apostille component*
- Items 7 and/or 10: *Both methods of completion are applicable depending on the jurisdiction and the technology used in implementing the e-Apostille component*

- 12 In addition to the digital signature, does your e-Apostille include any other security or technical features, such as QR codes, encryption, digital watermarks, or similar measures?

Yes, depending on the jurisdiction and the technology used to implement the e-Apostille component.

IV. Operation of an e-Register

- 13 What particulars are contained in your e-Register?

More than one answer is possible.

- ☐ Number and date of the Apostille (required).
- ☐ Name and capacity of the person signing the document and / or the name of authority whose seal or stamp is affixed (required).
- ☐ Name and / or type of underlying document.
- ☐ Description of the contents of underlying document.
- ☐ Name of the applicant.
- ☐ State of destination.
- ☐ Copy of the Apostille.
- ☐ Copy of the underlying public document.
- ☒ Other – please specify: *The contents of the e-Register depend upon the jurisdiction.*

If relevant, please explain any of the options above: N/A

V. Issues with e-Apostilles

The questions below are intended to assess the practical acceptance of e-Apostilles among Contracting Parties to the 1961 Apostille Convention. They aim to identify whether e-Apostilles issued or received by a Contracting Party have ever been refused, the reasons for any such refusals, and the actions taken in response.

- 14 Has an e-Apostille issued by your Competent Authority ever been refused by the authorities of another Contracting Party?

☒ Unknown.

☐ No.

☐ Yes, please provide any further information, in particular the reasons why the e-Apostille was refused, if known: N/A

15 If an e-Apostille has been rejected, what actions were taken in response?

More than one answer is possible.

- ☐ A paper Apostille was issued instead.
- ☐ Contacted the receiving authority.
- ☐ Contacted the Competent Authority of the place of destination.
- ☐ Contacted nearest diplomatic mission of the place of destination.
- ☐ Contacted own diplomatic mission accredited to the place of destination.
- ☐ Contacted the Permanent Bureau.
- ☐ No action taken.
- ☐ Other, please specify: N/A
- ☐ Unknown.

If relevant, please explain any of the options above: N/A

16 Has an e-Apostille received by your authorities ever been refused?

- ☒ Unknown.
- ☐ No.
- ☐ Yes, please provide any further information, in particular the reasons why the e-Apostille was refused, if known: N/A

If relevant, please explain any of the options above: N/A

VI. Education and training

17 Has your State implemented training activities or issued any guidelines on the operation of the e-APP for officers in the Competent Authority(ies)?

- ☐ No.
- ☒ Yes, please specify: *Individual competent authorities train their personnel.*

18 Has your State implemented training activities or issued any guidelines on the acceptance of e-Apostilles and the operation of e-Registers for receiving authorities?

- ☒ No.
- ☐ Yes, please specify: N/A

If your State has issued guidelines or supporting documentation for receiving authorities, please indicate the format used, the type of information included, how the documents have been distributed, and how frequently they are issued, if known: N/A

19 Is / Are your Competent Authority(ies) willing and able to meet with other Competent Authorities to discuss the implementation and operation of the e-APP and to exchange experiences?

- ☒ Yes, please specify: *The U.S. Department of State, representing the federal competent authority, and the Notary Public Administrators Section of the National Association of Secretaries of State, representing state competent authorities, have met with other competent authorities and are willing and able to continue to do so.*
- ☐ No, please specify: N/A.
- ☐ Unknown.

VII. Miscellaneous

20 Do you have any suggestions that could assist in the promotion, implementation, and / or operation of the e-APP?

- ☒ No.
- ☐ Yes – please specify: N/A

21 Are there any specific topics or practical issues related to the e-APP that your State would like have discussed at the 14th International Forum on the e-APP?

☐ No.

☒ Yes – please specify: *After participating in the brainstorming session calls concerning the rejection of e-Apostilles we are interested in hearing issues that other competent authorities may have encountered and how they have dealt with them.*

22 Please confirm whether your responses to this questionnaire can be published on the HCCH website.

☐ No.

☒ Yes – please specify whether certain questions should not be published: N/A

VIII. Additional information & supporting documents

23 Please indicate any additional information or documentation to support your response. This may include resources for the general public or guidelines for Competent Authority staff, as well as any recent judicial decisions, legislative developments, books, articles, or published works relevant to the operation of the 1961 Apostille Convention.

N/A

Please attach any relevant documents when submitting the questionnaire to secretariat@hcch.net.

Thank you for taking the time to complete this questionnaire.