

The United States Central Authority can only execute a Letter of Request for international judicial assistance that can be compelled by a judicial officer within the United States. Accordingly, we will endeavor to execute a Hague Evidence Convention request that seeks specific testimony or evidence from a properly identified witness. Below we provide examples, not an exhaustive list, of the types of requests that cannot be executed under our legal system.

Questions and Answers

Can A Requesting Judicial Authority Obtain A Legal Opinion Concerning A Particular Aspect Of United States Law, Federal Or State?

Requests for legal opinions are beyond the scope of assistance the United States can provide pursuant to the Hague Evidence Convention or received through diplomatic channels. The United States is a common law country, and under our common law legal system, in contrast to civil law systems, there is no mechanism by which a definitive statement of the content of United States law can be made. Furthermore, the courts of the United States do not render advisory opinions, *see, e.g., Chafin v. Chafin*, -- US --, 113 S. Ct. 1017 (2013) (citing *Lewis v. Continental Bank Corp.*, 494 U.S. 472 (1990)), and therefore a request seeking an opinion as to the substance of United States law on a specific issue is not a judicial function that can be executed under the Hague Evidence Convention. The parties may obtain the services of private counsel within the United States to research United States law, Federal or State.

Can A Requesting Judicial Authority Procure An Expert Opinion Or Investigative Service By Way Of A Letter Of Request?

Requests that seek an expert opinion on some issue, or request an investigation to be undertaken, are beyond the scope of the international judicial assistance that the United States can provide. Under our legal system, factual or legal investigations as well as the appointment of experts to render opinions on a topic, are not judicial functions, and therefore any Letter of Request that seeks such help, *e.g.*, investigation into estates, cannot

be accomplished. Instead, the parties to foreign litigation are free to retain such experts or investigators as required by the foreign litigation. The United States Central Authority can execute a Letter of Request, seeking responses to specific questions or specific documentation from a particular expert or investigator who has already rendered an opinion or conducted an investigation on behalf of the foreign parties.

Will the United States Central Authority Execute A Request To Enforce A Foreign Judgment?

Requests that seek the enforcement of foreign judgments or the seizure or freezing of assets in the United States in support of foreign civil or commercial proceedings are beyond the scope of the international judicial assistance that the United States can provide. Under our legal system, the recognition and enforcement of foreign or domestic judgments, as well as any action seeking to seize or freeze assets in support of a civil or commercial matter pending in another state, requires the initiation of a proceeding by the private parties involved in the matter. The United States plays no role in such private litigation.

What Information Is Needed To Execute A Letter Of Request For Information Concerning A Bank Account?

To obtain factual information about a specific bank account, the Letter of Request must specify the bank where the account is maintained, the full name of the account holder, and the account number, where possible. Where the bank account number is unknown, additional information concerning the holder will be helpful, such as the individual's Social Security Number or date of birth. Requests for specific bank account information directed to the Federal Reserve Bank cannot be executed. The Federal Reserve Bank is part of the Federal Reserve System and serves as a regulatory body for commercial banks. It does not have information relating to specific bank accounts.

Can A Requesting Judicial Authority Obtain Medical Information Concerning A Particular Individual?

The United States is unable to obtain the medical information requested without the signed consent of the patient or guardian. Medical information is confidential.

Can A Requesting Judicial Authority Obtain Tax Information Concerning A Particular Individual Or Enterprise?

The United States is unable to release tax related information without the signed consent of the taxpayer.

What Information Is Needed To Execute A Letter of Request For DNA Evidence?

Laboratories in the United States require the doctor requesting a DNA sample to supply the materials to be used for obtaining the sample, along with the proper container necessary for shipping. Complete instructions for drawing the DNA sample, and what additives are to be used, are also needed.

May The Requesting Judicial Authority Or A Foreign Litigant Participate In The Examination Of A Witness?

Examination of a witness is conducted by an Assistant United States Attorney. However, in its Letter of Request, the requesting judicial authority may request that counsel representing the foreign litigants be permitted to pose follow-up questions to clarify a witness's response.

May A Requesting Judicial Authority Submit An Electronic Letter Of Request?

The United States Central Authority will endeavor to execute a Letter of Request submitted via electronic mail. However, if production of the requested evidence must be compelled, the Assistant United States Attorney may need a paper copy, bearing the requesting judicial authorities signature and seal, to initiate domestic proceedings to compel production.

What Are The Mechanisms For Submitting An Evidence Request To The United States Pursuant To The Inter-American Convention On Letters Rogatory And Additional Protocol?

The United States is a party to those Conventions only for purposes of service of process, not for evidence gathering. Consequently, the only mechanism by which the United States government will accept formal letters rogatory issued by foreign courts located in non-Hague convention states is through diplomatic channels. A letters rogatory arising out of a foreign civil or commercial judicial proceeding that has been submitted to the United States through diplomatic channels will be referred to this office for execution.