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# Serving documents (recast)

Germany



Germany

## FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

### Article 3(1) - Transmitting agencies

The transmitting agency for judicial documents is the court serving the document (Section 1069(1)(1) of the Code of Civil Procedure (ZPO)).

The transmitting agency for extrajudicial documents is the local court (*Amtsgericht*) of the district in which the person serving the document is domiciled or habitually resident; for notarised deeds, it is also the local court of the district in which the office of the notarising notary is located; for legal persons, the registered office takes the place of the domicile or habitual residence; *Land* governments may issue an executive order instructing one local court to perform the tasks of the transmitting agency on behalf of several local court districts (Section 1069(1)(2) ZPO).

### Article 3(2) - Receiving agencies

The competent receiving agency under Article 3(2) of Regulation (EU) 2020/1784 is the local court in whose district the document is to be served. *Land* governments may issue an executive order instructing one local court to perform the tasks of the receiving agency on behalf of several local court districts.

### Article 3(4)(c) - Means of receipt of documents

In accordance with Article 5(4) of Regulation (EU) 2020/1784, the following means of receiving documents are available: reception by post, private courier service or fax.

Other communications can also be received by phone or by e-mail.

### Article 3(4)(d) - Languages that may be used for the completion of the standard form set out in Annex I

The forms in Annex I to Regulation (EU) 2020/1784 may be completed in German or English (Section 1070 ZPO).

### Article 4 - Central body

The functions of the central body are performed primarily at *Land* level.

Each *Land* has its own central body and the government of the *Land* determines which body will perform this function on its territory (Section 1069(3) ZPO). In most cases, the *Land* central body is the *Land* judicial authority, a higher regional court or a local court.

In addition to the 16 central bodies at *Land* level, there is one central body at federal level – the Federal Office of Justice (*Bundesamt für Justiz*). The federal central body provides support to the competent bodies in the *Länder* (Section 1069(4) ZPO) and receives requests for service in connection with actions brought against the Federal Republic of Germany.

## Article 7 – Assistance in address enquiries

In accordance with Article 7(1)(c), Germany makes the relevant information on finding addresses available on the e-Justice Portal. Thus in accordance with Section 44 of the German Federal Population Registration Act (*Bundesmeldegesetz* – BMG), foreign public authorities and foreign private individuals are entitled to obtain a simple register excerpt (*einfache Melderegisterauskunft*) for a particular person from the German registration authorities without stating their reasons for requesting it..

The simple register excerpt includes:

- family name;
- given names, indicating name usually used;
- PhD degree;
- current addresses and
- in the event that the person is deceased, a statement to that effect.

The request must be addressed to the competent registration authority. As a rule, this will be the local population office (*Bürgeramt*) in the municipality, town or city where the person is thought to reside. A growing number of municipalities are offering the option of obtaining the information online.

There is a fee for the register excerpt. The level of the fee varies from one *Land* to another.

The register excerpt is issued on condition that the person sought can be precisely identified on the basis of the information provided by the requesting body. This also applies where, as is theoretically possible, access to data relating to a large number of persons is requested. The transmission of a ‘results list’ is therefore not possible. In addition, the person or entity requesting the information must declare that they will not use the data for advertising or address trading purposes.

A register excerpt may not be issued if a ban on disclosure in accordance with Section 51 BMG or a conditional non-disclosure notice in accordance with Section 52 BMG has been entered in the register for the person concerned and if the infringement of protected interests cannot be ruled out.

In the context of activities that fall, in whole or in part, within the scope of EU law, data exceeding that scope may be transmitted, under Section 35 BMG, to public authorities in other Member States of the European Union, public authorities in other contracting states to the Agreement on the European Economic Area, to institutions and bodies of the European Union or to the institutions and bodies of the European Atomic Energy Community, to the extent necessary for performance of the tasks of the requesting body.

In accordance with Article 7(2)(c), the German receiving agencies will provide the following assistance:

Where an addressee does not reside at the address specified in the request for service, the German receiving agency will usually endeavour to ascertain their current address. This applies not only if the addressee has moved, but also if their address is incomplete or incorrect in the request for service. However, this is a voluntary

service provided by the receiving agency, which it is not obliged to provide.

## Article 8 – Transmission of documents

Form A in Annex I (request) may be completed in German or English (Section 1070 ZPO).

## Article 12 – Refusal to accept a document

None.

## Article 13 – Date of service

With respect to the applicant referred to in the third sentence of Article 12(5) and in Article 13(2) of Regulation (EU) 2020/1784, under German law the precise date of service seldom affects the computation of time limits, as it is normally sufficient for the document to have been lodged with the court by the deadline if service of the document is performed immediately (Section 167 ZPO). If in an individual case the precise date of service is significant, Section 222 ZPO applies in conjunction with Sections 187 et seq of the German Civil Code.

## Article 14 – Certificate of service and copy of the document served

Form K in Annex I (certificates of service of documents) may be completed in German or English.

## Article 15 – Costs of service

The costs under Article 15(2) of Regulation (EU) 2020/1784 for the service of documents by a bailiff depend on the circumstances of the individual case. In principle, costs may amount to up to EUR 37.25 plus expenses for producing copies or a fee for the certification of copies. The exact costs in individual cases are set out in the Law on enforcement agents (*Gerichtsvollzieherkostengesetz (GvKostG)*), in particular its list of costs.

## Article 17 – Service by diplomatic agents or consular officers

In the territory of the Federal Republic of Germany, service of judicial documents by diplomatic or consular missions under Article 17(1) of Regulation (EU) 2020/1784 is not permitted, unless such service is addressed to nationals of the State of transmission (Section 1067(2) ZPO).

## Article 19 – Electronic service

Under German law, the service of a document by ordinary e-mail is, in principle, not permitted. However, pursuant to Article 19(1)(b), Germany permits the service of a document from another Member State to an addressee in Germany, insofar as the following conditions laid down in accordance with Article 19(2) are met:

- the integrity and authenticity of the electronic document to be served can be ascertained by the addressee;
- the identity of the addressee and their consent to this electronic service of documents in the context of the procedure in question have been established, and the integrity and authenticity of the acknowledgement of receipt can be established.

## Article 20 – Direct service

Pursuant to Article 20 of the Regulation, judicial documents may be served directly in the territory of the Federal Republic of Germany, provided that German civil procedural law expressly permits direct service.

Judicial documents may include, for example, judgments, but not applications. Service of the latter is governed by Article 21 of the Regulation. Direct service is at the initiative of the parties (Section 191 ZPO); this is done by the bailiff (Section 192 ZPO).

This allows, for example, service by the bailiff of a judgment for the purpose of enforcement under Section 750(1) ZPO, service of the further enforcement instruments referred to in Section 794 ZPO, service of attachment orders pursuant to Section 922(2) ZPO or interim measures pursuant to Sections 936 and 922 ZPO.

## Article 22 – Defendant not entering an appearance

German courts may decide a dispute under the conditions laid down in Article 22(2) of Regulation (EU) 2020/1784 if the document instituting proceedings or its equivalent has been served by public notice in the Federal Republic of Germany in accordance with Section 185 ZPO.

No application may be entertained for the restoration of the original situation within the meaning of Article 22(4) of Regulation (EU) 2020/1784 more than one year after the end of the missed deadline (Section 234(3) ZPO).

## Article 29 – Relationship with agreements or arrangements between Member States

The Federal Republic of Germany and the Republic of Austria continue to apply the agreement concluded by their governments on 6 June 1959 to further simplify legal traffic in accordance with the Hague Convention of 1 March 1954 (published in Austrian Federal Law Gazette (BGBl.) No 27/1960 and in the German Federal Law Gazette (BGBl.) 1959 II, p. 1523).

## Article 33(2) – Notification on the early use of the decentralised IT-system

Not applicable.

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