

Übersetzung durch Eileen Flügel

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Stand: Die Übersetzung berücksichtigt die Änderung(en) des Gesetzes durch Artikel 3 des Gesetzes vom 24. Juni 2022 (BGBl. I S. 959).

Version information: The translation includes the amendment(s) to the Act by Article 3 of the Act of 24 June 2022 (Federal Law Gazette I, p. 959)

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**Act to Implement the Hague Convention of 15 November 1965
on the Service Abroad of Judicial and Extrajudicial
Documents in Civil or Commercial Matters and the Hague
Convention of 18 March 1970 on the Taking of Evidence
Abroad in Civil or Commercial Matters**

**(Gesetz zur Ausführung des Haager Übereinkommens vom
15. November 1965 über die Zustellung gerichtlicher und
außergerichtlicher Schriftstücke im Ausland in Zivil- oder
Handelssachen und des Haager Übereinkommens vom 18.
März 1970 über die Beweisaufnahme im Ausland in Zivil- oder
Handelssachen – HaagÜbkAG)**

Act to Implement the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters of 22 December 1977 (Federal Law Gazette I, p. 3105), as last amended by Article 3 of the Act of 24 June 2022 (Federal Law Gazette I, p. 959)

The Bundestag has adopted the following Act with the consent of the Bundesrat:

Part 1

**Rules for the Implementation of the Hague Convention of 15 November 1965 on the
Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial
Matters**

Section 1

(1) The agencies designated by the Land governments take on the tasks of the Central Authority (Articles 2 and 18 subsection (3) of the Convention). Each Land may establish only one Central Authority. The Land governments may transfer the authority under sentence 1 to the Land departments of justice.

(2) The Federal Office of Justice takes on the tasks of the Central Authority for the Federation. It supports the competent authorities of the Länder as necessary.

Section 2

The Central Authority of the Land in which service is to be effected and the agencies competent to receive requests of the consul of a foreign State under section 1 of the Act to Implement the Hague Convention of 1 March 1954 Relating to Civil Procedure of 18 December 1958 (Federal Law Gazette I, p. 939) are competent to receive requests for

service forwarded by a foreign consul within the Federal Republic of Germany (Article 9 subsection (1) of the Convention).

Section 3

Formal service (Article 5 subsection (1) of the Convention) is only admissible if the document to be served is written in, or translated into, German.

Section 4

(1) The Central Authority is authorised to have requests for service executed directly by postal channels if the conditions for service under Article 5 (1) (a) of the Convention are fulfilled. In that case, the Central Authority hands over the document to be delivered to the postal operator for service. The rules of the Code of Civil Procedure (Zivilprozeßordnung) regarding ex officio service apply accordingly.

(2) In all other cases, the local court in the district of which service is to be effected is competent for executing requests for service. Service is effected by the court registry of the local court.

Section 5

The certificate of service (Article 6 subsections (1) and (2) of the Convention) is issued by the Central Authority in the case of section 4 subsection (1) and by the court registry of the local court in all other cases.

Section 6

Service by diplomatic or consular agents (Article 8 of the Convention) is only admissible if the document is to be served on a national of the State sending the document. Service under Article 10 of the Convention does not take place.

Part 2

Rules to Implement the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

Section 7

(1) The agencies designated by the Land governments take on the tasks of the Central Authority (Articles 2 and 24 subsection (2) of the Convention). Each Land may establish only one Central Authority. The Land governments may transfer the authority under sentence 1 to the Land departments of justice.

(2) The Federal Office of Justice takes on the tasks of the Central Authority for the Federation. It supports the competent authorities of the Länder as necessary.

Section 8

The local court in the district of which the official act is to be performed is competent for executing requests for mutual legal assistance. The Land governments are authorised to assign this competence by statutory instrument to another local court in the district of the higher regional court or, where several higher regional courts are established in a Land, to a local court district for the districts of all or several higher regional courts. The assignment may also take place only for particular types of taking evidence. The Land governments may transfer this authorisation by statutory instrument to the Land departments of Justice.

Section 9

Requests for mutual legal assistance to be executed by the local court (Chapter I of the Convention) must be written in German or accompanied by a translation into German (Articles 4 (1) and 5 of the Convention).

Section 10

Members of the requesting foreign court may be present during the execution of a request for mutual legal assistance by the local court if the Central Authority has given its permission to that effect.

Section 11

The taking of evidence by diplomatic or consular agents is inadmissible if it concerns German nationals. If it concerns third-country nationals or stateless persons, it is only admissible if the Central Authority has given its permission to that effect (Article 16 subsection (1) of the Convention). Permission is not required when the third-country national also has the nationality of the country of the requesting court.

Section 12

(1) A member of the requesting court (Article 17 of the Convention) may take evidence only if the Central Authority has given its permission. The permission may be linked with conditions. (2) The court that would be competent for executing a request for mutual legal assistance in the same matter under section 8 is authorised to oversee the preparation and implementation of the taking of evidence. A representative of that court may be present at the taking of the evidence (Article 19 sentence 2 of the Convention).

Section 13

The Central Authority of the Land in which the taking of evidence is to be implemented is competent for giving permission under sections 10, 11 and 12 (Article 19 of the Convention).

Section 14

A Letter of Request issued for the purpose of obtaining pre-trial discovery of documents pursuant to Article 23 of the Convention shall only be executed if

1. the documents requested are described separately in detail,
2. the documents requested are of immediate and clearly recognisable relevance for the respective proceedings and their outcome,
3. the documents requested are in the possession of a party to the proceedings,
4. the Letter of Request does not violate fundamental principles of German law and
5. to the extent the documents requested contain personal data, the requirements for the transfer of personal data to a third country pursuant to Chapter V of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4 May 2016, p. 1; L 314, 22 November 2016, p. 2; L 127, 23 May 2018, p. 72; L 74, 4 March 2021, p. 35) are met.

Part 3

Other provisions

Section 15

The Federal Minister of Justice and Consumer Protection is authorised to issue statutory instruments requiring the consent of the Bundesrat designating the Central Authorities set up under sections 1 and 7 of this Act as the competent agencies to receive applications and requests of the consul of a foreign State under sections 1 and 3 subsection (2) of the Act of 5 April 1909 to Implement the Hague Convention on Civil Procedure of 17 July 1905 (Reich Law Gazette 1909 p. 430) and under sections 1 and 9 of the Act to Implement the Hague Convention of 1 March 1954 Relating to Civil Procedure.

Section 16

According to section 13 subsection (1) of the Third Transitory Act (Drittes Überleitungsgesetz), the present Act is also applicable in Land Berlin. Statutory instruments adopted under this Act are also applicable in Land Berlin according to section 14 of the Third Transitory Act.

Section 17

This Act enters into force on the day following promulgation.