



**Kaiserslautern Legal Services Center
Legal Assistance Information**

**Service of Process
From the USA to Germany**



This information paper provides basic information only, and is not intended to serve as a substitute for a personal consultation with a Legal Assistance Attorney. For an appointment to see an attorney, dial DSN 483-8848 or Civilian 0631-411-8848.

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in
Civil or Commercial Matters of November 15, 1965**

- Service of Process from the United States to Germany -

I. Key References

1. <http://www.hcch.net>
2. Memo No 386 Revision 3, U.S. Marshal's Office
3. Army Regulation (AR) 27-40, Litigation, 19 September 1994

II. Hague Service Convention (HSC) a.k.a. Hague Convention #14

1. Ratified (multilateral) international treaty
 - Contracting States: USA, Germany, ...
2. Supremacy Clause (Art. VI Sec. 2 U.S. Constitution)
 - Pre-emption and binding on the States
3. Purpose
 - To facilitate service of process
 - To give notice in sufficient time
4. Scope
 - Civil & Commercial Matters
 - Initial proceedings
 - Addressee's address has to be known

5. No Service of Process by direct mail to Germany
 - Germany has objected to any method of service mentioned in Art. 10 HSC, *e.g.*, direct mail. Service of process by direct mail from the United States to an individual in Germany is **not** allowed. Such Attempts constitute an affront to judicial sovereignty.

III. Request under HSC

1. Obtain D.J. Form USM-94 from U.S. Marshal's Office
 - Consisting of: Request, Certificate & Summary
 - Standard Terms: must be in English or French, additional languages allowed
 - Corresponding Blanks: must be filled out in English, French or German (being the official language of the receiving state)
2. All documents need to be furnished in duplicate, except for the D.J. Form USM-94
3. "Identity and Address of Applicant"
 - Address of Attorney, US Marshal, etc.
 - Germany will accept requests from designated officials only, therefore reference needs to be made to the statutory authority, *e.g.*, 28 U.S.C.A. Rule 4(c)2 Fed. Rules Civ. Proc. (stating: "Any person who is at least 18 years old and not a party may serve a summons and complaint") or applicable State law
4. "Address of Receiving Authority"
 - Fill in address of German Central Authority
5. Request Method of Service
 - Art. 5 para. 1(a) HSC: receiving state's laws
 - Art. 5 para. 1(b) HSC: by particular method if receiving State allows it, *e.g.*, personal service or service in the presence of a witness
 - Art. 5 para 2 HSC: by delivery to addressee if he/she accepts voluntarily
6. List all documents attached
7. Translation
 - Germany views service of process in terms of providing effective notice. If you cannot read it, you cannot understand it → no effective notice
 - Germany has made a reservation to Art. 5 HSC
 - Complaint and associated exhibits must be translated into German
 - No translation of D.J. Form USM-94 necessary
8. Complete "Summary" portion
9. Date and Sign

10. Mail in duplicate directly to the Central Authority of the receiving State
 - Completion of service: 4 to 8 weeks
 - Art. 12 HSC: no service fees
 - Upon completion of service of process the Certificate of Service will be returned

11. Alternative methods of Service
 - An Individual may always accept service voluntarily
 - Art. 8 HSC: effect service of process through diplomatic or consular channels w/o compulsion. Yet, Germany limits it to service on nationals of that State. See also 22 CFR § 92.85 (stating: "The service of process and legal papers is not normally a Foreign Service function. Except when directed by the Department of State, officers of the Foreign Service are prohibited from serving process or legal papers or appointing other persons to do so.")
 - Art. 9 HSC: consular or diplomatic request to a designated authority: in Germany the President of the Regional Court ("Landgericht") in whose district the documents are to be served
 - If a Department of Army official receives a request to serve Federal process or State court process on a person overseas, he/she will determine whether that person, after being provided the opportunity to seek legal counseling, accepts service voluntarily. If that person objects to voluntary service, the DA official will notify the requesting party thereof and advise to follow the rules under the applicable Hague Service Convention (AR 27-40 para. 2-5 c).

12. Date and Sign

13. Send the D.J. Form USM-94 and all attached documents (in duplicate) directly to the appropriate German "Central Authority".

IV. Practice Tip

Client's attorney in the USA should complete D.J. Form USM-94, sign it, and mail it together with all documents to his/her client in Germany. The attorney may leave the block for the "Address of Receiving Authority" blank, if he/she does not know the "Land" where the recipient lives and, therefore, has no knowledge of the correct address to the "Central Authority". The Legal Assistance Attorney can complete that block. Client then takes the documents to a translator. Since the "Central Authority" will return all documents if the translation is of poor quality, an official certified translator is strongly recommended. A lay translator might not be familiar with the translation of technical legal terms. Thereafter, all paperwork (D.J. Form USM-94, accompanying documents, associated exhibits and translations thereof - all in duplicate) is sent straight to the "Central Authority" by the JAG Office.

V. US Central Authority

a. The US President issued an Executive Order, designating the Department of Justice, Civil Division, Office of Foreign Litigation ("OFL") as the "Central Authority" for the United States. Its address reads: Office of International Judicial Assistance, Department of Justice, 1100 L Street, NW, Room 11006, Washington, DC 20530, Phone: (202) 514-7455 or (202) 307-0983

b. Yet, effective June 1, 2003 the US Central Authority outsourced service of process issues and awarded to a private process server company a contract according to which that company assumes the duties of the United States Central Authority for a period of 5 years, which has been prolonged to run for 5 consecutive 1-year terms until 2014 (contract # DJJ09-C-1799). Its address reads: Process Forwarding International (PFI), 910 5th Avenue, Seattle, WA 98104, USA, Phone: (206) 521-2979, Fax: (206) 224-3410, Email: info@hagueservice.net, <http://www.hagueservice.net>.

c. Due to the outsourcing and contrary to its prior policy, a filing fee will now be charged even if the foreign country concerned does not impose a fee for the service of American judicial documents. Since 2007 there is a \$95 flat-rate for service under the Hague Service Convention within the United States and its Territories. Unless the money/check is sent along with the documents, the documents will be returned. Service should be effected within 2 to 4 weeks, *e.g.*, if the jurisdiction permits it, "mail and nail" service may be used.

Prepared by Joerg C. Modellmog, German Attorney-Advisor

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Appendix A:

**REQUEST
FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS**

Convention on the service abroad of judicial and extrajudicial documents in civil or Commercial matters, signed at The Hague, on the 15th of November, 1965.

Identity and address of the applicant

Address of receiving authority

The undersigned applicant has the honor to transmit – in duplicate – the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address).....

a) in accordance with the provisions of sub-paragraph a) of the first paragraph of article 5 of the Convention*).

b) in accordance with the following particular method (sub-paragraph b) of the first paragraph of article 5)*):

c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)*).

The authority is requested to return or to have returned to the applicant a copy of the documents – and of the annexes*) – with a certificate as provided on the reverse side.

List of documents

.....
.....
.....
.....

Done at, the

Signature and/or stamp.

*) Delete if inappropriate

CERTIFICATE

The undersigned authority has the honor to certify, in conformity with article 6 of the Convention,

1) that the document has been served*

- the (date)

- at (place, street, number)

.....

- in one of the following methods authorized by article 5 -

a) in accordance with the provisions of sub-paragraph a) of the first paragraph of article 5 of the Convention*).

b) in accordance with the following particular method*):

.....

c) by delivery to the addressee, who accepted it voluntarily*).

The documents referred to in the request have been delivered to:

- (identity and description of the person):

.....

- relationship to the addressee (family, business or other):

.....

2) that the document has not been served , by reason of the following fact*):

.....

.....

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*).

Annexes

Documents returned:

.....

.....

In appropriate cases, documents establishing the service:

.....

.....

Done at, the

Signature and/or stamp.

*) Delete if inappropriate

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the service abroad of judicial and extrajudicial documents in civil or Commercial matters, signed at The Hague, on the 15th of November, 1965.

(article 5, fourth paragraph)

Name and address of the requesting authority:

Particulars of the parties*):

JUDICIAL DOCUMENT)**

Nature and purpose of the document:

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

Date and place for entering appearance**):

Court which has given judgment**):

Date of judgment**):

Time limits stated in the document**):

EXTRAJUDICIAL

Nature and purpose of the document:

Time limits stated in the document**):

*) If appropriate, identify and address of the person interested in the transmission of the document.

***) Delete if inappropriate

Appendix B:

The Federal Republic of Germany consists of 16 "Länder", each "Land" or state has its own "Central Authority". Note, for any recent update please consult the official website (<http://www.hcch.net>), click on English version for Convention #14 thereafter and then click on "Authorities" and scroll to the country (Germany) concerned.

Baden-Wuerttemberg	Präsident des Amtsgerichts Freiburg (The President of the Local Court of Freiburg) Holzmarkt 2 79098 Freiburg Germany Phone: +49 (0)761 205-0 Fax: +49 (0)761 205-1804 Email: poststelle@agfreiburg.justiz.bwl.de www.agfreiburg.de
Bavaria	Präsidentin des Oberlandesgerichts München (The President of the Higher Regional Court of Munich) Prielmayerstr. 5 80097 München Germany Phone: +49 (0)89 5597-02/2642 Fax: +49(0)89 5597-3575 Email: poststelle@olg-m.bayern.de www.justiz.bayern.de/olgm
Berlin	Senatsverwaltung für Justiz (The Senate Administration of Justice) Salzburger Str. 21-25 10825 Berlin Germany Phone: +49 (0)30 9013-3016 Fax: +49(0)30 9013-2000 Email: poststelle@senjust.berlin.de www.berlin.de/sen/justiz
Brandenburg	Das Ministerium der Justiz des Landes Brandenburg (The Ministry of Justice for the Land Brandenburg) Heinrich-Mann-Allee 107 14460 Potsdam Germany Phone: +49 (0)331 866-0 Fax: +49 (0)331 866-3080/3081 Email: poststelle@mdje.brandenburg.de

www.mdj.brandenburg.de

Bremen

Der Präsident des Landgerichts Bremen
(The President of Regional Court of Bremen)
Domsheide 16
28195 Bremen
Germany
Phone: +49 (0)421 361-4204
Fax: +49(0)421 361-6713
Email: office@landgericht.bremen.de
www.landgericht.bremen.de

Hamburg

Präsident des Amtsgerichts Hamburg
(The President of the Local Court of Hamburg)
Sievekingplatz 1
20335 Hamburg
Phone: +49 (0)40 42843-0
Fax: +49(0)40 42843-2383
Email:
verwaltungAmtsgerichtHamburg@ag.justiz.hamburg.de
www.justiz.hamburg.de/amtsgericht

Hessen

Oberlandesgericht Frankfurt am Main
Zeil 42
Postfach 10 01 01
60313 Frankfurt am Main
Germany
Phone: +49 (0) 1367-01 /-2902
Fax: +49(0) 1367-2976
www.olg-frankfurt.justiz.hessen.de

Lower Saxony

Niedersächsisches Ministerium der Justiz
Am Waterlooplitz 1
30169 Hannover
Phone: +49 (0) 511 120-0
Fax: +49(0) 511 -120-5170/ -5181
Email: poststelle@mj.niedersachsen.de
www.mj.niedersachsen.de

Mecklenburg-Western
Pomerania

Der Minister für Justiz
des Landes Mecklenburg-Vorpommern
(The Minister of Justice for the Land Mecklenburg-
Western Pomerania)
Puschinstr. 19-21
19048 Schwerin
Germany

Phone: +49 (0)385 588-3355
 Fax: +49(0)385 588-3453
 Email: poststelle@jm.mv-regierung.de
www.regierung-mv.de

Northrhine-Westphalia

Der Präsident des Oberlandesgerichts Düsseldorf
 (The President of the Higher Regional Court of
 Duesseldorf)
 Cecilienallee 3
 40474 Düsseldorf
 Germany
 Phone: +49 (0)211 4971-0
 Fax: (0211) 4971-548
 Email: poststelle@olg-duesseldorf.nrw.de
www.olg-duesseldorf.nrw.de

Rhineland-Palatinate

Ministerium der Justiz und Verbraucherschutz
 des Landes Rheinland-Pfalz
 (The Ministry of Justice and Consumer Protection for
 the Land Rhineland-Palatinate)
 Ernst-Ludwig-Str. 3
 55116 Mainz
 Germany
 Phone: +49 (0)6131 16-4858
 Fax: +49 (0)6131 16-4887
 Email: poststelle@min.jm.rlp.de
www.jm.justiz.rlp.de

Saarland

Ministerium der Justiz des Saarlandes
 (Ministry of Justice for Saarland)
 Zähringerstr. 12
 66119 Saarbrücken
 Germany
 Phone: +49 (0)681 501-00
 Fax: +49 (0)681 501-5855
 Email: poststelle@justiz.saarland.de
www.saarland.de/ministerium_justiz.htm

Saxony

Präsident des Oberlandesgerichts Dresden
 (The President of the Higher Regional Court of
 Dresden)
 Schloßplatz. 1
 01067 Dresden
 Germany
 Phone: +49 (0)351 446-0
 Fax: +49 (0)351 446-31299

Email: verwaltung-olg@olg-justiz.sachsen.de
www.justiz.sachsen.de/olg/

Saxony-Anhalt

Ministerium für Justiz des Landes Sachsen-Anhalt
(The Ministry of Justice of the Land of Saxon-Anhalt)
Hegelstr. 40-42
39104 Magdeburg
Germany
Phone: +49 (0)391 567-6140
Fax: +49 (0)391 567-6180
Email: poststelle@mj.sachsen-anhalt.de
www.mj.sachsen-anhalt.de

Schleswig-Holstein

Ministerium für Justiz
(The Ministry of Justice)
Lorentzendamm 35
24103 Kiel
Germany
Phone: +49 (0)431 988-3854
Fax: +49 (0)431 988-3870
Email: poststelle@jumi.landsh.de
www.mjae.schleswig-holstein.de

Thuringia

Ministerium für Justiz
(The Ministry of Justice)
Werner-Seelenbinder-Str. 5
99096 Erfurt
Germany
Phone: +49 (0)361 3795-200
Fax: +49 (0)361 3795-888
Email: poststelle@tjm.thueringen.de
www.thueringen.de/de/justiz

Appendix C:

American Offices with Consular Functions in the Federal Republic of Germany can be found at <http://germany.usembassy/acs/>. Please note, the offices in Hamburg and Duesseldorf no longer provide American Citizen Services (ACS) and might fade away.

The “Mailing Address” to the US Embassy is the following:

Berlin	Embassy of the United States Berlin
Brandenburg	Consular Section
Mecklenburg-Western Pomerania	Clayallee 170
Saxony-Anhalt	14195 Berlin
Thuringia	Germany
	Phone: +49 (0)30 832-9233
	Email: acsberlin@state.gov
	http://www.germany.usembassy.gov

Note, the “Visiting Address” is on
Pariser Platz 2
10117 Berlin
Germany
Phone: +49 (0)30 2385-174

Hesse	American Consulate General Frankfurt/M.
Baden-Wuerttemberg	Giessener Str. 30
Northrhine-Westphalia	60435 Frankfurt/Main
Rhineland-Palatinate	Germany
Saarland	Phone: +49 (0)69 7535-0

Bremen	Consular Agency Bremen
Hamburg	Flughafenallee 18 (4 th Floor)
Lower Saxony	28199 Bremen
Schleswig-Holstein	Germany
	Phone: +49 (0)421-301-5860
	(open only Mondays, Tuesdays and Thursdays from 09:30 to 13:30; Wednesdays from 9:30 to 11:30)
	Email: consular-agent@usabremen.de

Saxony	American Consulate General Leipzig
	Wilhelm-Seyfferth-Str. 4
	04107 Leipzig
	Germany
	Phone: +49 (0)341 213-84-0
	Email: leipzig@usconsulate.de

Bavaria

American Consulate General Munich
Königinstr. 5
80539 München
Germany
Phone: +49 (0)89 2888-0
Email: consmunich@state.gov