

# Questionnaire relating to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service Convention)*

Responding State:

Germany

## I. General Feedback

1. How does your State rate the general operation of the Service Convention?
  - (b) Good.
2. How does your State rate the useability of the HCCH [Practical Handbook on the Operation of the Service Convention](#)?
  - (b) Good.
3. Does your State's Central Authority have a manual or electronic case management register or system that is used to track incoming requests under the Service Convention?
  - (f) Other.

*"There are no federal registers used throughout Germany; some of the Länder use case management registers, some of them electronic registers, some manual registers or other means to track incoming requests. As a remark to questions 3. and 4. as well as preliminary to questions concerning data and statistics it must be underlined that in Germany no official statistics are kept on the number of incoming and outgoing requests for service or on the time to process them. The judicial departments of the Länder, which designate the Central Authorities for their area of competence, have an informal overview, but are only able to provide limited information on content-related aspects of Letters of Request and the time required to process them. Some of the following information is based on their records. It is only of limited informative value. An answer to this question is also given by the European Union."*
4. If your State's Central Authority has oversight for all outgoing requests, please indicate if there is a system used to track the progress of these.
  - (d) Other.

*"An answer to this question is also given by the European Union."*

## II. Scope of the Convention

5. In the previous five years\*, has your State experienced any difficulties in interpreting the scope of the Service Convention?

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

- (a) Yes, regarding the interpretation of “civil or commercial matters” (Art. 1).  
*“Distinction between private and public law matters; outgoing requests for service of interlocutory orders pursuant to the Act on Protection against violence according to Section 210 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG); Service of documents where split-recovery statutes will apply; in these cases parts of the amount a plaintiff would receive will be deposited into a general state fund.”*

### A. Extrajudicial documents

6. Is the concept of “extrajudicial documents” (Art. 17) defined in the internal law of your State?

- (b) No.

7. What types of extrajudicial documents are **transmitted** under the Service Convention by your State?

*“Most requests for service of such documents concern notarial documents and administrative documents especially in child support cases.”*

## III. Operation of the Convention

Requesting State refers to the State from which a request for service is, or will be, issued.

Requested State refers to the State to which a request for service is, or will be, addressed.

8. As the **requested State**, does your State provide assistance to locate a person to be served under the Service Convention?

*(The Special Commission, at its 2014 meeting, encouraged Contracting Parties to provide such assistance consistent with their legal and structural capabilities, when able to do so, see C&R No 23.)*

- (a) Yes.

*“In some cases assistance might be provided by getting information from the municipal registration office, or from a commercial register in cases the person to be served is a company.”*

9. As the **requesting State**, how would your State transmit a document for service upon another State, a State official, or a State-owned company?

- (c) Other.

*“Whether the Service Convention applies can remain open from the German perspective. This is because Germany also considers requests for service on Contracting States, on State officials or in some cases State-owned companies under the Hague Service Convention to be exceptional cases under the Convention in which at least diplomatic transmission is required. Indeed, Article 9(2) of the Hague Service Convention provides that documents may be transmitted through diplomatic channels for the purpose of service “if exceptional circumstances so require”. In these cases it is for the defendant State to decide whether the request is handed to the Central Authority for execution or the respective Ministry of Foreign*

*Affairs confirms acceptance of service by verbal note. German courts would use diplomatic channels for transmission and the request would be handed to the respective Ministry of Foreign Affairs by verbal note without using the model forms. The term “through the diplomatic channel” is interpreted by Germany as referring to transmissions of documents by the competent authorities of the forum State to the Ministry of Foreign Affairs of the defendant State through the forum State’s diplomatic or consular mission in the defendant State. Germany does not accept service to its diplomatic or consular missions.”*

10. As the **requested State**, how is a request for service on your State, State official or State-owned company executed?

*“A request is executed via diplomatic channels.”*

11. Does your State serve judicial and extrajudicial documents in the same way?

(a) Yes.

#### **A. Main Channel of Transmission (Art. 5)**

12. In your State, what are the authorities or who are the persons competent to forward a request for service to a foreign Central Authority?

(a) Courts / Tribunals.  
(f) Central Authority(ies).

13. Do outgoing requests for service have to be transmitted through your State’s Central Authority?

(b) No.

14. As the **requested State**, when no particular method is requested by the applicant, what is the primary / default method of service? (Art. 5(1)(a))

(c) By post.

15. In the previous five years\*, as the **requested State**, has your State **received** a request with a particular method of service requested by the applicant? (Art. 5(1)(b))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

- 15.1. If yes, what method of service was requested?

(a) Personal service.

- 15.2. If yes, was the requested method of service able to be executed?

(a) Yes.

16. In the previous five years\*, as the **requesting State**, has your State's forwarding authorities requested a particular method of service? (Art. 5(1)(b))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

16.1. If yes, what particular method of service was requested? *More than one answer is possible.*

(a) Personal service.

(f) Other.  
*"Substituted service."*

16.2. If yes, was the requested method of service able to be executed?

(c) Unknown.

16.3. If yes, were there costs associated with this method of service?

(a) Yes.

*"In some cases: bailiff costs when the document was served by a bailiff."*

## **B. Alternative Channels of Transmission (Arts 8, 9 & 10)**

State of origin refers to the State in which proceedings are commenced and where the document to be served originates.

State of destination refers to the State where service is, or will be, effected.

### **1. Model Form**

Use of the Model Form is mandatory for the main channel of transmission. The Special Commission, at its 2009 meeting, urged State Parties to widely encourage the use of the part of the Model Form containing the "Summary", accompanied by the "Warning" (see C&R No 31).

17. As the **State of origin**, does your State use the "Warning" and "Summary" sections of the Model Form when transmitting a request through alternative channels?

(b) Sometimes.

*"'Warning' and 'Summary' Sections are not used when requests are transmitted according to Art. 8; When the request is delivered by post, Art. 10, courts use a German model form (ZRH 6) as determined by the German domestic Regulation on Judicial Assistance in Civil Matters (Zivilrechtshilfeordnung – ZRHO)."*

18. As the **State of destination**, does your State use the "Certificate" section of the Model Form when informing whether documents have been served (in response to a request received through alternative channels)?

(e) Not applicable, due to the objection made on the use of alternative channels.

## 2. Diplomatic and Consular Agents (Art. 8)

19. In the previous five years\*, have the diplomatic or consular agents of your State directly effected service of judicial or extrajudicial documents upon a person abroad? (Art. 8(1))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

20. In the previous five years\*, has service by diplomatic or consular agents of your State been rejected by the addressee? (Art. 8(1))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

*“When the addressee rejected the documents, it was not possible to serve the documents according to Art. 8 of the Convention. A certificate of non-service was issued by the diplomatic or consular agent.”*

## 3. Diplomatic and Consular Channels (Art. 9)

21. In the previous five years\*, has your State used consular channels to forward documents? (Art. 9(1))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

22. In the previous five years\*, under exceptional circumstances, has your State used diplomatic channels to forward documents? (Art. 9(2))

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

*“See answer Q9.”*

## 4. Postal Channel (Art. 10(a))

23. Has your State (as the **State of destination**) objected to service under Article 10(a)?

(a) Yes.

- 23.1. If an objection has been made under Article 10(a), does your State continue to use postal channels for service as the State of origin, despite the objection?

(a) Yes.

23.2. If no objection has been made, does your State, as the **State of destination**, accept the use of postal channels for service from other States of origin that have made an objection under Article 10(a)?

N/A

23.3. If no objection has been made, which of the following categories does your State recognise as a “postal channel” under Article 10(a)?

N/A

23.4. If no objection has been made, more specifically, would your State consider service by e-mail to be analogous to service by postal channels under Art. 10(a)?

N/A

23.5. If no objection has been made, does your State require the documents served to be translated into one of your State’s official languages?

N/A

#### **5. Judicial Officers, Officials or other Competent Persons (Art. 10(b))**

24. Has your State objected to service under Article 10(b)?

(a) Yes.

24.1. If no objection has been made, which of the following categories does your State recognise as a “judicial officer, official or other competent person” under Article 10(b), either for sending or receiving?

N/A

24.2. If no objection has been made, how does this channel of transmission operate in practice?

N/A

24.3. If no objection has been made, are there costs associated with this channel of transmission?

N/A

#### **6. Person Interested in a Judicial Proceeding (Art. 10(c))**

25. Has your State objected to service under Article 10(c)?

(a) Yes.

25.1. If no, which of the following categories does your State recognise as “any person interested in a judicial proceeding” under Article 10(c), either for sending or receiving?

N/A

25.2. If no, how does this channel of transmission operate in practice?

N/A

25.3. If no, are there costs associated with this channel of transmission?

N/A

### C. Refusal to Execute Request (Art. 13)

26. In the previous five years\*, has your State refused a request for service on grounds of infringing “sovereignty or security”?

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(b) No.

27. In the previous five years\*, has a request from your State been refused on grounds of infringing “sovereignty or security”?

\*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.  
*“Requests for service in patent dispute matters.”*

## IV. Use of Information Technology

In 2019, the PB circulated a questionnaire on the use of information technology in relation to the operation of the Service Convention. That survey was concluded prior to the COVID-19 pandemic. The questions below seek information from Contracting Parties on the use of technology and in light of the pandemic.

28. Has your State taken any steps (including through legislation) to enable or increase the use of technology to facilitate the operation of the Service Convention, including in response to the COVID-19 pandemic?

(b) No.

29. Do the forwarding authorities of your State transmit requests under the Service Convention electronically?

(b) No.

29.1. If yes, what methods of transmission do the forwarding authorities of your State use?

N/A

30. Does your State’s Central Authority accept requests under the Service Convention transmitted electronically in circumstances where **only** an electronic copy is provided (and where a paper copy is not subsequently provided)?

(b) No.

30.1. If yes, what methods of transmission does your State accept?

N/A

30.2. If no, please provide further information about why this is not yet possible.

*“The request for service must be signed and/or sealed. The technical requirements for transmission with a reliable examination of the origin and authenticity have yet to be fulfilled in this area on a global level. In addition to this, cross-border technical standards are not adequate in order to give legally secure evidence to the requesting party and the forwarding authority that the authentic request has been received and is being processed.”*

31. Does your State permit execution of service via electronic means?

(a) Yes, this is possible via the following means: *“By secured electronic means (Section 173 of the German Code of Civil Procedure [Zivilprozessordnung - ZPO]).”*

31.1. If no, what are your State’s reasons for refusing to execute the requests for service to be performed by using information technology?

N/A

32. What challenges, if any, has your State faced regarding the use of information technology under the Service Convention? *More than one answer is possible.*

(g) Security concerns.

(h) Other.

*“Media discontinuity as requests are received by post due to security reasons.”*

33. In your State’s opinion, what further work could the PB do on the use of information technology under the Service Convention?

(c) Other.

*“A similar project as I-support could be envisaged.”*

34. In addition to the Service Convention, is your State a Party to any bilateral, regional, or multilateral agreements that provide rules for the service of documents abroad?

(a) Yes.



For Parties that answered “yes” to Q34 above:

34.1. Do any of these agreements provide for the use of electronic means (e.g., e-mail) to transmit or execute requests for service?

(a) Yes.

*“1. Supplementary agreements to the Hague Convention of 17 July 1905 and/or of 1 March 1954 were concluded with: Norway (Berlin, 2 August 1909; Oslo, 17 June 1977); Switzerland (Berlin, 30 April 1910; and 24 December 1929 – in particular Article 18). 2. Bilateral conventions on judicial co-operation: United Kingdom (London, 20 March 1928 – Articles 2 to 7). United Kingdom (1928) which also applies to States other than the United Kingdom, e.g., Australia, the Bahamas, Canada, Malaysia and New Zealand; Greece (Athens, 11 May 1938 – Articles 1 to 6); Liechtenstein (17 February / 29 May 1958); Morocco (Rabat, 29 October 1985); Tunisia (Bonn, 19 July 1966), Turkey (Ankara, 28 May 1929 – Articles 9 to 17), United States of America (29 October 1954). 3. Within the EU, the Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (Service of Documents Regulation) has been replaced by Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast) (Service of Documents Recast Regulation). Articles 5 and 37(2) of the Service of Documents Recast Regulation and its implementing Regulation oblige Member States to start using a decentralised IT system for transmission of requests and communication related to the service of documents at the latest by 1 May 2025. Only no. 3 provides for the use of electronic means. An answer to this question is also given by the European Union.”*

## V. 2023 Meeting of the Special Commission & Monitoring

35. What are the three key topics or practical issues related to the Service Convention that your State would like discussed at the 2023 meeting of the Special Commission?

1. *“Electronic transmission of requests for service.”*
2. *“Model Form: the model form should contain fields to fill in the reference no. and an acknowledgement of receipt should be drafted.”*
3. *“More detailed information about central and competent authorities of the Contracting States on the HCCH-website.”*

35.1. Please indicate whether the information provided in Q35 above may be published.

(a) Yes.

36. Does your State have any suggestions that could assist in the promotion, implementation, or operation of the Service Convention?

(b) No.

36.1. If the answer to Q36 above is “yes”, please indicate whether the information provided may be published.

N/A

37. The PB is in the process of revising the Service Handbook. Are there any specific topics, suggestions for presentation or formatting, or any other proposals you recommend for inclusion?

(b) No.

37.1. If the answer to Q37 above is “yes”, please indicate whether the information provided may be published.

N/A

## DATA & STATISTICS FOR CONTRACTING PARTIES

### I. Statistics under Main Channel of Transmission (Art. 5)

#### A. Incoming Requests

1. How many incoming requests for service did your State receive under the main channel of transmission (Art. 5) in each of the following years?

2017	7335
2018	6539
2019	6871
2020	6411
2021	7622
2022	5697 – “in some of the federal states data is not yet available”
Unknown – please explain. <i>“As a preliminary remark it must be said that in Germany, no official statistics are kept on the number of incoming and outgoing requests for service. The figures below are based on voluntary information from the Central Authorities of the federal states in which documents were served in accordance with the Hague Service Convention.”</i>	

2. Which three States made the most requests?

Requesting State	Number
Turkey	28088
Switzerland	5380
USA	1426

3. If possible, please provide a breakdown of how long (in months) it took to execute incoming requests.

	< 1	1-3	3-6	6-12	> 12
2017		x			
2018		x			
2019		x			
2020		x			
2021		x			
2022 (if data available)		x			

Unknown – please explain. <i>“As there are no official statistics kept the average time can only be estimated.”</i>
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4. How many of these incoming requests for service did your State receive via **electronic transmission** in each of the following years?

2017	0
2018	0
2019	0
2020	0
2021	0
2022	0
Unknown – please explain. <i>“It is not possible to send a Letter of Request via electronic means. In the case of incoming Letters of Request a signature and official seal or stamp is required. There is not yet a cross-border electronic signature on a global level to identify the origin and authenticity of the Letter of Request.”</i>	

5. How many incoming requests for service did your State **execute for service** via electronic means in each of the following years?

This is regardless of whether a paper copy of the documents was subsequently provided.

2017	0
2018	0
2019	0
2020	0
2021	0
2022	0
Unknown – please explain. -	

6. Are execution times for electronically transmitted requests for service generally faster than those transmitted by post?

(e) Not applicable.

## B. Outgoing Requests

7. How many outgoing requests for service did your State make under the main channel of transmission (Art. 5) in each of the following years?

2017	7833
2018	7725
2019	7481
2020	6976
2021	6852
2022	3329 – <i>“in some of the federal states data is not yet available.”</i>
Unknown – <i>please explain.</i>	
-	

8. Which three States were the subject of the most requests?

Requesting State	Number
Switzerland	21282
Turkey	4717
USA	3930

9. How many outgoing requests for service did your State make via electronic transmission under the main channel of transmission (Art. 5) in each of the following years?

2017	0
2018	0
2019	0
2020	0
2021	0
2022	0
Unknown – <i>please explain.</i> <i>“For outgoing Letters of Request, the German domestic Regulation on Judicial Assistance in Civil Matters (ZRHO) prescribes that they are to be signed by a judge and stamped with an official stamp or with an official seal. There is not yet a cross-border electronic signature on a global level to identify the origin and authenticity of the Letter of Request.”</i>	

## II. Statistics under Alternative Channels of Transmission

10. Does your State have statistics on incoming requests under alternative channels of transmission?

- (a) Yes, Article 8.
- (b) Yes, Article 9.
- (c) Yes, Article 10(a).
- (d) Yes, Article 10(b).
- (e) Yes, Article 10(c).
- (x) No, none of the above.

10.1. If yes, how many (total) incoming requests for service did your State receive under the alternative channels of transmission in each of the following years?

N/A

## III. Refusals (Art. 13)

11. If applicable, please indicate how many incoming requests for service your State refused to comply with between 2017 and 2022?

*"Unknown."*

12. If applicable, please indicate how many outgoing requests for service transmitted by your State were refused between 2017 and 2022?

*"Unknown."*

## CASE LAW, ADDITIONAL INFORMATION & SUPPORTING DOCUMENTS

### I. Case Law

Please list all your State's judicial decisions that have considered the Service Convention since 2014 and provide a link to, or upload the decisions (in PDF format only).

*“Landesarbeitsgericht Berlin-Brandenburg, Order dated 10 January 2020, 15 Ta 2185/19 - Oberlandesgericht Düsseldorf, Order dated 23 June 2017, I-3 VA 6/16, 3 VA 6/16 - Bundesverfassungsgericht, non-acceptance order dated 3 November 2015, 2 BvR 2019/09 - Oberlandesgericht München, Order dated 26 July 2016, 34 Wv 192/16 - Oberlandesgericht Stuttgart, Order dated 18 May 2017, 17 VA 1/16 - Bundesgerichtshof, Order dated 3 April 2019, XII ZB 311/17 - Bundesgerichtshof, reference to the CJEU 20 January 2022, IX ZB 60/20 - Oberlandesgericht Frankfurt a.M., Order dated 22 November 2021, 28 VA 1/21 - Landesarbeitsgericht Rheinland-Pfalz, Judgment dated 29 April 2014, 6 Sa 337/13 - Oberlandesgericht Stuttgart, Order dated 30 January 2015, 5 W 48/13 - Hanseatisches Oberlandesgericht Hamburg, Judgment dated 21 February 2019, 3 U 35/15 - Bundesarbeitsgericht, Judgment dated 18 December 2014, 2 AZR 1004/13 - Bundesgerichtshof, Order dated 9 October 2014, IX ZB 46/13 - Hanseatisches Oberlandesgericht Hamburg, Judgment dated 25 December, 2018 8 U 51/17”*

10 files uploaded.

### II. Additional Documents

Please provide links to and / or any additional information or documentation to support your response (in PDF format only). This may include:

- ⇒ resources for the general public or guidelines for Central or other Authorities' staff;
- ⇒ implementation legislations, recent legislative developments; or
- ⇒ books, articles, or other published work.

*“On the dedicated website of the Federal Office of Justice (<https://www.bundesjustizamt.de/irzh>) as well as on the dedicated website of the Ministry of Justice of North Rhine-Westphalia (<https://www.ir-online.nrw.de/>), comprehensive information is available especially for German courts on judicial cooperation in civil and commercial matters. In particular, the German domestic Regulation on Judicial Assistance in Civil Matters (Zivilrechtshilfeordnung – ZRHO) can be accessed on both websites. The aforementioned provision provides for general guidelines with a view to the coherent preparation and execution of requests, i.a. under the Hague Evidence Convention as well as under the Hague Service Convention. The German domestic Regulation also features country profiles (so called ‚Länderabschnitte‘) where the relevant legal instruments, competent authorities and formalities are indicated for the respective countries. The German domestic Regulation and in particular the country profiles are an important tool for the courts preparing outgoing requests and executing incoming requests for the cross-border taking of evidence and service of documents (see: [https://www.bundesjustizamt.de/DE/Themen/InternationaleZusammenarbeit/Zivilsachen/RechtshilfeordnungfuerZivilsachen/Laenderteil/Laenderteil\\_node.html](https://www.bundesjustizamt.de/DE/Themen/InternationaleZusammenarbeit/Zivilsachen/RechtshilfeordnungfuerZivilsachen/Laenderteil/Laenderteil_node.html)). The act implementing the Hague Evidence Convention as well as the Hague Service Convention (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) can be accessed here: [https://www.gesetze-im-internet.de/haag\\_bkag/Haag%C3%9CbkAG.pdf](https://www.gesetze-im-internet.de/haag_bkag/Haag%C3%9CbkAG.pdf).”*

## PUBLICATION OF RESPONSES

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

- (a) Yes.