



Towards more Effective  
enFORcemenT of claimS in  
civil and commercial matters  
within the EU EFFORTS

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# Collection of German implementing rules

## A. Germany

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### I. General implementation strategy

In Germany, the pertinent implementation rules for the regulations covered by the EFFORTS project can for the most part be found in the German Code of Civil Procedure (*Zivilprozessordnung*, hereinafter: ZPO). They are placed in the 11<sup>th</sup> Book of the ZPO which is entirely dedicated to European judicial cooperation in civil matters (as evidenced by the Book's title "Judicial Cooperation within the EU"). The 11<sup>th</sup> Book is subdivided into sections, each dealing with a specific European regulation. For the present purposes, the sections 4 to 6 cover the EEOR, EPOR, and ESCPR respectively, which corresponds to the chronology of the enactment of these regulations. Section 7 contains rules on the recognition and enforcement regime of the Brussels I bis Regulation. Merely the implementation rules on the EAPOR were placed elsewhere in the ZPO for systematic reasons. The rules on cross-border account preservation under the EAPOR were implemented in a separate section 6 entitled "Cross-border Account Preservation" immediately after the domestic rules on preservation, seizure and injunctions (§§ 946 et seq. ZPO).

Against this background, it can be observed that the German legislator largely relied on codified rules as a means of implementation of the regulations. These have the obvious advantage of easy detectability, particularly as the rules are placed in the ZPO, being the main act on civil procedure in German law. Both the provisions themselves as well as the section headings for each regulation explicitly refer to the pertinent regulation, thereby placing "signposts" for legal operators. All domestic implementation provisions entered into force at the moment in time in which the respective regulation became applicable. Moreover, enforcement proceedings may result in a seizure of property of the debtor so that, under Art. 14 of the German constitution ("Basic Law"), they require a statutory basis. The time frame



between entry into force and the applicability of the regulations, at least from a German perspective, therefore, appears to have been sufficient.

When it comes to the general legislative techniques with regard to the implementation rules, it can be observed that the German legislator has opted to synchronize the European instruments both with pre-existing domestic procedural instruments as well as within the regimes created by the regulations. On the one hand, numerous implementation rules refer to provisions of domestic law, which are to be applied *mutatis mutandis*. On the other hand, the regulations themselves are accordingly systematically aligned as evidenced by the fact that some of the implementation rules of the regulations in turn refer to those on other regulations, particularly to the EEOR as the first European instrument of the so-called second generation. While this technique is more efficient and results in “slimmer” legislative acts, the repeated references are arguably to the detriment of user-friendliness. Generally, the implementation rules and the manner in which these intertwine the regulations with national law are characterized by a certain degree of complexity.

## II. Brussels I bis Regulation

### 1. Competent court or authority and procedure for issuance of certificates (outgoing)

The German implementation rules on the Brussels I bis Regulation distinguish between outgoing/domestic titles (§§ 1110 et seq. ZPO) and incoming/foreign titles (§§ 1112 et seq. ZPO, see below A. II. 2.). When it comes to the former, the certificates in Annexes I and II pursuant to Art. 53 and 60 Brussels I bis Regulation respectively shall be issued by a court or a notary (§ 1110 ZPO). While a hearing of the debtor is generally not required, the certificate will have to be served to the debtor *ex officio* (§ 1111 (1) ZPO). The debtor can then proceed against the issuance of the certificate by means of the domestic remedy against the issuance of a certificate of enforceability (*Vollstreckungsklausel*) under national law (§ 1111 (2) in conjunction with §§ 732 and 768 ZPO). The creditor’s remedies are accordingly those under national law (§ 1111 (2) in conjunction with §§ 567, 731 ZPO and in the event of a notary § 54 Notarization Law (*Beurkundungsgesetz*, hereinafter: BeurkG).

### 2. Competent court or authority and procedure for the enforcement of foreign titles (incoming)

The implementation rules on incoming titles from other European Member States commence with a declaratory statement (cf. Art. 36 (1) Brussels I bis Regulation) that these



are enforceable without a certificate of enforceability (*Vollstreckungsklausel*) under national law (§ 1112 ZPO).

Pursuant to Art. 44 (2) Brussels I bis Regulation, the Member State in which enforcement is sought shall suspend the enforcement proceedings in the event of a suspension of the title's enforceability in the Member State of origin. In line with the Regulation, § 1116 ZPO stipulates that a request for suspension has to be filed by the debtor. Pursuant to the latter provision, the domestic rules on termination or limitation of the enforcement proceedings and on the repeal of already effected enforcement measures apply *mutatis mutandis* (§ 1116 in conjunction with §§ 775 et seq. ZPO).

Competence for applications for refusal of recognition or enforcement (Art. 45 (4) and 47 (1) Brussels I bis Regulation respectively) lies with the regional court (*Landgericht*) (§ 1115 (1) ZPO) at the debtor's place of residence or, in the event that the debtor does not reside in Germany, at the place of enforcement (§ 1115 (2) ZPO). The court's decision can be reviewed by means of the remedy of complaint subject to a time limit (*sofortige Beschwerde*) (§ 1115 (5) in conjunction with § 567 (1) No. 1 ZPO).

In the event that the foreign title requires enforcement measures unknown to the Member State in which enforcement is sought, adaptation is required (Art. 54 Brussels I bis Regulation). The relevant implementation provisions refer to various institutes of national law which provide the debtor with a remedy against the manner in which the enforcing institutions (court, enforcement officer, etc.) practically enforce a title. These remedies apply *mutatis mutandis* for adaptation (§ 1114 ZPO).

### 3. Other implementation rules

The debtor may to apply for a termination of the enforcement proceedings by arguing that substantive objections to the claim have arisen after the judgment was handed down (§§ 1117, 795, 767 ZPO). An example could be that the debtor, in the meantime, has fulfilled its obligation. The domestic remedies accordingly apply for foreign titles pursuant to § 1117 (1) ZPO, which achieves this effect by referring to an implementation provision on the EEOR (§ 1086 ZPO, see in greater detail A. III. 8.). As such, § 1117 ZPO serves a dual purpose and is a good example of the abovementioned (see A. I.) legislative technique to which the German legislator adheres to align the implementation provisions both with pre-existing national law as well as with other implementation rules.



#### 4. Critical assessment

The relatively small number of national implementation provisions on the Brussels I bis Regulation provide for all matters addressed in this reporting template and indeed appear to cover the vast majority of relevant matters. In general, and contrary to some of the other regulations in the field of cross-border enforcement within the EU, the interplay of which with domestic law arguably requires more intricate implementation rules, the Brussels I bis Regulation to a great extent entails a more stand-alone framework. For those reasons, the following regulations will be addressed in a greater detail.

### III. European Enforcement Order Regulation (EEO)

#### 1. Competent authority for (re-)issuance and suspension of the EEO (outgoing)

In Germany, the court of first instance or, should the legal dispute be pending with a court of higher instance, that respective court, is competent to issue, re-issue and suspend the EEO on a judicial decision (§§ 1079 No. 1 and 2 ZPO, 724 (2) ZPO). Thus, the court's competence correlates with the competence to furnish a certificate of enforceability (*Vollstreckungsklausel*). Functionally, the judicial officer is competent to issue the EEO (§ 20 (1) No. 11 Judicial Officer Act (*Rechtspflegergesetz*, hereinafter: RPflG).

The issuance, re-issuance or suspension of the EEO for authentic instruments is assigned to the notary or authority that issued the authentic instrument (§§ 1079 No. 1 and 2, 797 (2) ZPO).

#### 2. Procedural rules on (re-)issuance and suspension of the EEO

Legal representation by a lawyer is generally mandatory when applying for an EEO, except when a notary or the youth welfare office are the competent authorities. Moreover, at the local court (*Amtsgericht*), where the parties can also ordinarily litigate without a lawyer, legal representation is not required.

The procedure for the (re-)issuance of the EEO correlates with the German national procedure on the issuance of a certificate of enforceability (*Vollstreckungsklausel*). The EEO is issued and re-issued without a hearing of the debtor (§ 1080 (1) ZPO). Subsequently, the execution of the EEO-certificate is served to the debtor *ex officio* (§ 1080 (1) ZPO). The service to the debtor is regulated by the European Service Regulation. The creditor, on the other hand, is informed about the (re-)issuance by an informal notification.



Where the application for issuance of an EEO-certificate is dismissed, the rules regarding the contestation of the decision to issue a court certificate of enforceability (*Vollstreckungsklausel*) apply *mutatis mutandis* (§ 1080 (2) ZPO). As such, the creditor can appeal a decision of the local court (*Amtsgericht*) to the regional court (*Landgericht*) (§ 567 (1) No. 2 ZPO) or, in the case of the notary or youth welfare service, by means of a complaint (§ 54 BeurkG).

§ 1085 ZPO deals with the stay or limitation of enforcement. Aside from a lack or limitation of enforceability of the EEO pursuant to Art. 6 (2) EEOR, German national law provides for other grounds accordingly (§ 1085 in conjunction with §§ 775, 776 ZPO). These include cases where a third party has intervened and has asserted rights of its own, where security has been posted in order to avoid enforcement, or where the debtor has fulfilled its obligation. Therefore, the German national grounds for terminating and limiting the enforcement regulated in § 775 ZPO apply to the enforcement of an EEO and are complemented by the grounds of the execution of the EEO-certificate indicating a lack or limitation of enforceability pursuant to the EEOR.

### 3. Procedural rules on rectification or withdrawal of the EEO

The application pursuant to Art. 10 (2) EEOR for the rectification or withdrawal of an EEO has to be filed with the court that issued the EEO-certificate (§ 1081 (1) ZPO), which also decides on the application (§ 1081 (2) ZPO). If the EEO was issued by a notary or public authority, the application has to be directed to the respective notary or public authority (§ 1081 (1) ZPO), which is then obliged to forward the application without undue delay to the local court (*Amtsgericht*) of the district in which they are seated (§ 1081 (1) ZPO). While no time limitation applies to the application for rectification, the application for withdrawal has to be filed within one month (§ 1081 (2) ZPO). If the EEO-certificate is served abroad, the application is twice as long, namely two months (§ 1081 (2) ZPO). In both cases, the time limit commences when the EEO is served. However, it shall not commence before the enforcement title itself, e.g. the judgment, has been served accordingly. The rationale behind the necessity of the service of both the EEO as well as the enforcement title is to enable the debtor to examine (possible) discrepancies between the EEO and the decision itself.

When it comes to withdrawal, the debtor's request has to set out the grounds which support the conclusion that the EEO was obviously granted wrongly (§ 1081 (2) ZPO). The application is dismissed when such grounds are lacking altogether or were not substantiated. The application for rectification, on the other hand, does not require such display of grounds. The court decides on the application without previous oral hearings (§§ 1081 (2), 319 (2)



ZPO). In the event that rectification or withdrawal are granted, these have to be noted on the EEO-certificate (§§ 1081 (3), 319 (2) ZPO).

If the judicial officer dismisses the rectification or withdrawal, the applicant may, as a remedy, have the decision reviewed by the judicial officer within a time period of two weeks (§§ 1081 (3), 319 (3) ZPO in conjunction with § 11 (2) RPflG). If the rectification or withdrawal is granted, however, the applicant can appeal to regional court (*Landgericht*) (§§ 1081 (3), 319 (3), 567 ZPO, § 11 (1) RPflG).

#### 4. Rules on service

Art. 13 and 14 EEOR lay down detailed rules on the service of documents. The German legislator has refrained from enacting specific provisions. This is unproblematic for various reasons. Firstly, the EEOR's rules on service, at least to some extent, allow for means of service that can be achieved by regular mail and therefore require no specific implementation rules. Additionally, when it comes to more formalized modes of service under the EEOR, these largely correspond to general domestic rules on service of document, which can be found in §§ 174 et seq. ZPO. Occasionally, however, the national rules lay down stricter requirements with the consequence that insofar as the national rules are adhered to, the document has accordingly been validly served for the purposes of the EEOR.

#### 5. Possibilities for review under Art. 19 (1) and (2)

The German legislator held that the pre-existing national procedural provisions meet the minimum requirements of Art. 19 (1) EEOR and has, therefore, not provided for a special procedure. Under national law, the debtor – in the event that the failure to act before the expiration of the statutory period cannot be attributed to his own fault – can apply for a procedural restoration of the *status quo ante* (*Wiedereinsetzung in den vorigen Stand*) (§ 233 ZPO). The application has to be filed at the court which was competent for the original procedure within a time period of two weeks (§ 234 (1) ZPO). The time period starts as soon as the debtor is capable, i.e. is no longer hindered to take the appropriate procedural action (§ 234 (2) ZPO). However, the application cannot be filed and the procedural cannot be completed later than one year after the statutory period has passed (§§ 234 (3), 236 (2) ZPO).

Furthermore, German procedural law provides the debtor with an even more generous remedy against the court decision pursuant to Art. 19 (2) EEOR. The debtor may, as a remedy, file a protest (*Einspruch*) against a default judgment or enforcement order even if his default or lack of defence in the main proceedings (§§ 700 (1), 338 ZPO) can be attributed to his own fault. The protest has to be filed within a time period of two weeks. The time period begins as soon as the debtor is either served the default judgement or the enforcement



order (§ 339 (1) ZPO). However, if the debtor has to be served abroad, the time period is doubled and amounts to one month (§ 339 (2) ZPO). If the protest is successful, the court proceedings are restored to the *status quo ante* (§ 342 ZPO), or, in the case of a protest an enforcement order, the main proceedings commence (§ 700 (3) ZPO).

## 6. Competent authority and procedure for refusal, or stay or limitation of enforcement (incoming)

The local court (*Amtsgericht*) has exclusive competence for refusal, or stay or limitation of enforcement (§ 1084 (1) ZPO). Functional competence lies with the judge and not with the judicial officer. When it comes to local jurisdiction, the national rules apply *mutatis mutandis* (§ 1084 (1) ZPO). Therefore, either the local court at the place of enforcement (§ 764 (2) ZPO) or the local court at the debtor's place of residence (§§ 828 (2), 12, 13 ZPO) is competent. Should the debtor not reside in Germany, any local court where assets of the debtor are located (§§ 828 (2), 23 ZPO) has local jurisdiction. In the event that multiple local courts are locally competent, the debtor can elect between them (§ 35 ZPO). From a practical point of view, however, the various norms will often lead to the same court because the place of residence and the place of enforcement are likely to coincide.

The decision on the application for a refusal of enforcement pursuant to Art. 21 EEO is delivered by a court order (§ 1084 (2) ZPO) and requires a prior hearing of the creditor in view of the general procedural right to be heard. Nonetheless, full oral proceedings are merely optional (§ 128 (4) ZPO). Before deciding on the request for refusal, the court can make a temporary arrangement by means of an interim order (§§ 1084 (2), 769 (1) ZPO).

The decision regarding the suspension or limitation of enforcement pursuant to Art. 23 EEO is taken by interim order (§ 1084 (3) ZPO). No possibility for appeal exists, as the decision is explicitly declared incontestable (§ 1084 (3) ZPO).

## 7. Costs for the issuance of an EEO

Costs for the issuance of an EEO amount to EUR 22 (No. 23805 KV Court and Notary Fees Act (*Gesetz über Kosten der freiwilligen Gerichtsbarkeit für Gerichte und Notare*, hereinafter: GNotKG). These costs are equivalent to those for the issuance of a certificate of enforceability (*Vollstreckungsklausel*) under national law (§§ 733, 797 (3) ZPO, Nr. 23804 KV GNotKG).





## 8. Other implementation rules

The debtor may apply for a termination of the enforcement proceedings by arguing that substantive objections to the claim have arisen after the judgment was handed down (§§ 1086, 795, 767 ZPO). An example could be that the debtor, in the meantime, has fulfilled its obligation. Such substantive objections for reasons of chronology cannot have been considered by the court in the Member State of origin. Pre-existing substantive objections, however, cannot be brought forward by means of this remedy (§§ 1086 (2), 767 (2) ZPO). Local jurisdiction again lies with the courts of first instance at the place of enforcement or at the place of the debtor's place of residence (§§ 1086 (1), 767 ZPO).

## 9. Critical assessment

The German legislator has enacted provisions for all matters identified by this template. As addressed above (A. I.) and with regard to the various remedies provided for by the EEOR, many of the German implementation provisions refer to corresponding remedies under national law. This strategy arguably enables legal operators to rely on procedural mechanism with which there are already acquainted, thereby fostering the workability of the EEOR in practice.

Against the background of the *Imtech Marine Belgium/Radio Hellenic*-decision<sup>1</sup>, in which the CJEU held that the “actual certification itself requires a judicial examination of the conditions laid down by Regulation” (note 46), the question has arisen in the literature whether the German implementation rules, which provide for a certification by the judicial officer, are in full conformity with the EEOR. In order to appraise this issue, the role of the judicial officer, who is competent also for various other matters in relation with the regulations of the second generation (see below in greater detail), requires further clarification. In short, the judicial officer's competences in civil matters are largely limited to procedural matters and formalities, such as issuing certifications, certificates of enforceability (*Vollstreckungsklauseeln*), etc. (cf. § 20 RPflG). The judicial officer is not a judge and has not completed university studies in law (cf. § 2 RPflG). Against that background, the judicial officer is generally neither competent pursuant to national law nor well-equipped to decide on matters of substance. Whether German law in this respect is in full conformity with the EEOR and the requirements of the CJEU's case law has hitherto not been settled.

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<sup>1</sup> CJEU 17.12.2015, C-300/14 (*Imtech Marine Belgium/Radio Hellenic*), note 43 et seq.



## IV. European Payment Order Regulation (EPOR)

### 1. National distribution of competences under Art. 6

The German legislator has opted for a concentration of jurisdiction for all EPOR-related proceedings. Pursuant to § 1087 ZPO, the local court (*Amtsgericht*) of Berlin-Wedding has exclusive jurisdiction for applications for the issuance and review of an EPO as well as for the certificate of enforceability (*Vollstreckungsklausel*). Functionally, competence again largely lies with the judicial officer (§ 11 No. 7 RPflG). In the case of a review procedure, however, the judge is functionally competent.

### 2. Sanctions under Art. 7 (3)

The assertion of a non-existent or fictitious claim is sanctioned by criminal law. Such a course of action, under certain circumstances, can amount to fraud (§ 263 Criminal Code (*Strafgesetzbuch*, hereinafter: StGB)) or, in the case of automatized proceedings, to computer fraud (§ 263a StGB) and lead to a prison sentence of up to five years or a fine.

### 3. Means of communication

The application for the issuance of an EPO and the statement of opposition have to be transmitted in a form that is machine-readable (§ 1088 (1) ZPO). The local court (*Amtsgericht*) of Berlin-Wedding can lay down further technical requirements. Further specifications are provided to the parties by the Member States' notifications pursuant to Art. 29 (1) (c) and (2) EPOR.

The legislator of the State (*Land*) of Berlin is given the possibility to enact a statute providing for an automatized processing of EPO-applications at the local court (*Amtsgericht*) of Berlin-Wedding (§ 1088 (2) ZPO). However, such a statute has hitherto not been enacted. Nonetheless, the local court (*Amtsgericht*) of Berlin-Wedding – even without a statutory foundation – accepts electronic application for an EPO via the Electronic Court and Administration Mailbox (EGVP) as PDF-files. Electronic submissions from abroad are facilitated by e-Codex.

### 4. Rules on service and verification by courts pursuant to Art. 12 (5)

The rules on service under the EPOR largely correspond to those for the EEOR, which have been addressed above (cf. A. III. 4.).



## 5. Rules on opposition to and review of the EPO (outgoing)

After an opposition pursuant to Art. 17 (2) EPOR is lodged, the court sets a reasonable period of time for the claimant to designate the court competent for the main proceedings (§ 1090 (1) ZPO). When it comes to the reasonable time period, relevant factors include the time needed for the transmission of the court's request, the time for consideration, and time needed for the transmission of the claimant's response. The court also indicates to the claimant that the designated court for the main proceedings will – after the transfer of the proceedings – assess its own competence (§ 1090 (1) ZPO). The opposition of the claimant is also communicated to the respondent (§ 1090 (1) ZPO). If the claimant does not designate a court for the main proceedings within the time period set by the court, the EPO is repealed and the proceedings pursuant to the EPOR are terminated (§ 1090 (1) ZPO).

If the claimant has indeed designated the competent court for the main proceedings within the time limit, the court that has issued the EPO transfers the proceedings *ex officio* to the court designated by the claimant (§ 1090 (2) ZPO). The order for transferal, which is incontestable, is made by the judicial officer (§ 20 No. 7 RPflG) and the court files are transmitted. The parties are informed of the judicial officer's order for transferal (§§ 1090 (2), 696 (1) ZPO). The judicial officer's dismissal of the transmission is, however, contestable. Appeal can be made to the regional court (*Landgericht*) (§ 11 (1) RPflG, § 567 (1) ZPO).

The main proceedings continue at the court designated by the claimant as soon as it receives the court files (§§ 1090 (2), 696 (1) ZPO). At that point in time, the proceedings pursuant to the EPOR come to a close and the proceedings are (exclusively) governed by national law. The transmission order of the judicial officer does not bind the designated court (§§ 1090 (2), 696 (5) ZPO). Rather, the court decides on its jurisdiction independently pursuant to the relevant provisions on jurisdiction. After receiving the court files, the court registry of the designated court without undue delay orders the claimant to provide the reasons on which he is basing his claim within two weeks (§§ 1091, 697 (1) ZPO). After receiving the substantiated claim, the proceedings are continued pursuant to the general rules on contentious procedures.

The dispute is deemed to have become pending when the EPO was served, provided that the dispute was subsequently indeed transferred to the designated court (§ 1090 (3) ZPO). Any court costs in connection with the EPO will be allocated in the course of the main proceedings (§§ 1090 (2), 696 (1), 281 (3) ZPO). The claimant may withdraw his petition to instigate the main proceedings until the respondent is to be first heard on the merits of the case (§§ 1090 (2), 696 (4) ZPO).



When it comes to the review proceedings pursuant to Art. 20 EPOR, the local court (*Amtsgericht*) of Berlin-Wedding has exclusive jurisdiction. The judge is functionally competent (§ 1087 ZPO). The application has to be submitted to the court in writing or must be declared at the court registry. The respondent has to substantiate the facts and circumstances on which the repeal of the EPO is based and has to demonstrate facts to the satisfaction of the court only (§§ 1092 (2), 294 ZPO). Therefore, the standard of proof is lowered (*Glaubhaftmachung*) in comparison with the ordinary standard of proof. The court transmits the application for review to the claimant and, thus, gives the claimant the opportunity to respond. During the review proceedings, the court may pass interim orders in order to secure the review process (§§ 1095, 707 ZPO). The decision regarding the application for review of the EPO is delivered by an incontestable court order (§ 1092 (1) ZPO).

If the application for review is justified, the court revokes the EPO (§ 1092 (3) ZPO); the EPO proceedings are thereby terminated. In the event that the application for review is rejected, however, the EPO continues to have legal effect. In addition, possible interim orders are repealed.

## 6. Competent authority and procedure for refusal, or stay or limitation of enforcement (incoming)

As noted above (A. I.), the German legislator has not only opted for a synchronization between the European regulations and domestic institutes of civil procedural law, but also within the European regulations, the procedures are uniformized as much as possible. Against that background, both the refusal (Art. 22 (1) EPOR) as well as the stay or limitation of enforcement proceedings (Art. 23 EPOR) under the EPOR are governed by the same rules as those proceedings under the EEOR. This effect is achieved by § 1096 (1) ZPO, which provides for the application *mutatis mutandis* of § 1084 (1) and (2) ZPO on the EEOR (see supra A. III. 6.).

The objection that the defendant has paid the claimant the amount awarded in the EPO pursuant Art. 20 (2) EPOR can accordingly be brought forward by means of § 767 ZPO. Also here, the German legislator has made reference to the domestic provision of the EEOR, which also applies to the EPOR (§ 1096 (2) ZPO).

## 7. Remedies under national law in cases such as CJEU, C-119/13 and C-120/13

As consequence of the CJEU's decision in the *eco cosmetics*-case, in which it held that the EPOR is not applicable if the EPO was not properly served, the German legislator subsequently adopted a dedicated provision to provide for a remedy (§ 1092a ZPO).



According to § 1092a ZPO, the respondent may apply for suspension of the EPO at the local court (*Amtsgericht*) of Berlin-Wedding, if the EPO was either not served correctly pursuant to Art. 13-15 EPOR or was not served at all. The application has to be filed within a period of one month. The time limit commences when the respondent was positively aware or should have been aware of the issuance of the EPO (§ 1092a (1) ZPO). If the application is successful, the EPO is annulled and, in the case of the EPO already being declared enforceable pursuant to Art. 18 EPOR, the enforcement is declared inadmissible.

### 8. Costs for the issuance of the EPO

The costs for the EPO proceedings amount to factor 0,5 of the fee assessed for the value of the claim (§ 34 Court Fees Act (*Gerichtskostengesetz*, hereinafter: GKG) in conjunction with No. 1100 Cost Chart (*Kostenverzeichnis*, hereinafter: KV) GKG). However, a minimum amount of EUR 36 has to be charged. The costs for the EPO are identical to those for domestic payment proceedings. In the event of an opposition and main proceedings at the designated court, the fee for the EPO proceedings is deducted from the court costs for the main proceedings, which is factor 3,0 of the fee assessed for the value of the claim. If the value of the claim is, for example, EUR 500, the fee is factor 0,5 of the fee of EUR 38 (§ 34 GKG), i.e. EUR 19. Therefore, the costs for the EPO in view of the minimum fee, the costs ultimately amount to EUR 36.

### 9. Other implementation rules

None.

### 10. Critical assessment

The German legislator has opted for a concentration of jurisdiction for all EPOR proceedings in Germany at the local court (*Amtsgericht*) of Berlin-Wedding. The choice for that specific court can be traced back to the fact that the local court (*Amtsgericht*) of Berlin-Wedding is also the designated court for the domestic payment order proceedings in the event that the applicant does not have a place of residence in Germany (cf. § 689 (2) ZPO). The assessment of the legislator's choice in this regard obviously largely runs parallel to the general discussion on the benefits and disadvantages of specialization and concentration within the judiciary. In view of the complexity of the European regulations and the fact that many legal operators are not likely to be well-acquainted with the various instruments, the concentration of jurisdiction at a single court arguably is to be welcomed. It allows for the processing of EPO requests by personnel that routinely deals with such applications and



are, therefore, likely to be better equipped. Ultimately, concentration of jurisdiction may result in a greater degree of expertise and experience.

Moreover, when it comes to the manner in which requests for an EPO are handled, certain efficiency gains could potentially be achieved by putting more emphasis on the opportunities of digitalization. While the request form can be completed digitally as a PDF-file, it will subsequently generally have to be submitted to the court via regular mail. Against this background, it is regrettable that a legal foundation for the automatized processing of EPO-request has not yet been provided for by the state (*Land*) legislator, even though the federal legislator has opened the door to do so in the ZPO.

Finally, it can be acclaimed that the German legislator reacted to the CJEU's strict approach to the scope of application of the EPOR in the *eco cosmetics*-case by adopting a provision providing for a remedy enabling the opposing party to apply for a suspension of the EPO. A point of critique, however, concern the legislator's response time, which was over four years.

## V. European Small Claims Procedure Regulation (ESCPR)

### 1. Competent court

In Germany, each state (*Land*) can concentrate the competence for proceedings pursuant to the ESCPR at one court which meets the technical requirements necessary for facilitating oral hearings via means of distance communication pursuant to Art. 5 (1)(a), 8 ESCPR (§ 1104a ZPO). Therefore, competence varies from state to state. Hitherto, only five of 16 states (*Länder*) have made use of this possibility. These are:

- Baden-Württemberg: local courts (*Amtsgerichte*) Heidelberg and Heilbronn
- Hesse: local court (*Amtsgericht*) and regional court (*Landgericht*) Frankfurt/Main.
- Northrhine-Westfalia: local court (*Amtsgericht*) Essen
- Saxony-Anhalt: local court (*Amtsgericht*) Halle/Saale
- Schleswig-Holstein: the local courts (*Amtsgerichte*) at the seat of every regional court (*Landgericht*) for the respective regional court's district, i.e. with the exclusion of all the other local courts within the district of the relevant regional court. In practice, these are four regional courts in Schleswig-Holstein and, therefore, four competent local courts, namely in Flensburg, Itzehoe, Kiel and Lübeck.

The court responsible for the issuance of a certificate of enforceability (*Vollstreckungsklausel*) of the legal title is also competent to issue the certificate provided for by Art. 20 (2) ESCPR



(§ 1106 (1) ZPO). Practically, it is issued by the records clerk of the registry (*Urkundsbeamter der Geschäftsstelle*) of the court of first instance and, should the legal dispute be pending with a court of higher instance, by the records clerk of that court's registry (§ 724 (2) ZPO). The judicial officer is functionally competent (§ 20 (1) No. 11 RPflG).

## 2. Means of communication

The standard claim forms as well as other applications or declarations may be submitted to the court in writing, by telefax or, provided that it is machine readable by the court and is signed with a qualified electronic signature (§ 130a ZPO), in the form of an electronic document (§ 1097 (1) ZPO).

In the case of an oral hearing being necessary pursuant to Art. 8 (1) ESCPR, the court may permit the parties as well as their attorneys to not be physically present at the courtroom but to take part in an oral hearing by means of a video-conference (§§ 1100 (1), 128a (1) ZPO).

## 3. Procedure for claims outside the scope of the ESCPR

In the case provided for by Art. 4 (3) ESCPR, the court proceeds with the claim without applying the rules of the ESCPR (§ 1097 (2) ZPO). Consequently, the proceedings are continued under national procedural law.

## 4. Costs and distribution of costs

The general national provisions governing costs apply accordingly to the distribution of costs pursuant to Art. 15a, 16 ESCPR. Therefore, in line with Art. 16 ESCPR, the unsuccessful party has to bear the costs of the proceedings, including those of the opposing party to the extent that these were necessary to pursue the claim (§ 91 (1) ZPO). In case a party is only partially successful/not wholly successful, the court distributes the costs in relation to the parties' partial success/loss (§ 92 ZPO). In this respect, the German rules on costs appear to be in full-conformity with the CJEU's judgment in *Jonsson/Société du Journal L'Est Républicain*, in which it was held that the distribution of costs in the event of an only partially successful claim under national law does not violate the ESCPR.

In one aspect, the cost rules on the ESCPR are even more favourable than those for national proceedings, as the obligation for an advance payment of the fees (§ 12 (2) No. 2 GKG) does not apply.



## 5. Competent court and procedure for refusal, or stay or limitation of enforcement (incoming)

When it comes to the remedies of Art. 22, 23 ESCPR, the German legislator has opted to refer to the implementation rules on the corresponding remedies under the EEOR, which apply *mutatis mutandis*. These were already addressed above (see A. III. 6.). Also for the ESCPR remedies, the local court is competent and the same procedural rules apply (§ 1109 (1) in conjunction with § 1084 ZPO).

The court before which the main action is being pursued is competent for applications to limitation of enforcement pursuant to Art. 15 (2) in conjunction with Art. 23 ESCPR (§ 1105 (2) ZPO). The decision is given by a preliminary order and is incontestable. The applying party has to demonstrate the grounds for the application pursuant to Art. 23 ESCPR to the satisfaction of the court. The standard of proof is lowered (*Glaubhaftmachung*).

## 6. Other implementation rules

The German legislator has laid down various additional implementation rules. A brief overview will be provided here.

The German implementation rules provide for a time period within which the refusal to accept a record or document pursuant to Art. 6 (3) ESCPR has to be declared. The time period is set at one week and begins when the record or document is served. The recipient has to be notified of the consequences of failing to comply with this period (§ 1098 ZPO). These were already discussed above (see A. III. 5.). The debtor can file for a restoration of the *status quo ante* (*Wiedereinsetzung in den vorigen Stand*) (§ 233 ZPO).

Prior to the certificate being executed pursuant to Art. 20 (2) ESCPR, the debtor has to be heard (§ 1106 (2) ZPO). If the application for issuance of a certificate is dismissed, the rules governing the contestation of the decision to issue a court certificate of enforceability apply *mutatis mutandis*.

If a party fails to make a statement within a provided time period or fails to appear at an oral hearing, the court may simply proceed and take its decision on the basis of the record as it stands (*nach Lage der Akten*) (§ 1103 ZPO). However, German law also contains various rules on the proceedings pursuant to Art. 18 (1), (2) ESCPR, which provide for a review in extraordinary circumstances. The belated party has to demonstrate the grounds for its application to the satisfaction of the court. Also here, the standard of proof is lowered (*Glaubhaftmachung*) (§ 1104 (2) in conjunction with § 294 ZPO). The application may be filed as an electronic document (§ 1097 (1) in conjunction with § 130a ZPO).





Finally, judgments given in the European Small Claims Procedure can be appealed in the same way as judgments given in a regular national procedure. Therefore, appeals pursuant to § 511 ZPO (against decisions of the local court (*Amtsgericht*) to the regional court (*Landgericht*)) and § 542 ZPO (against decisions of the court of second instance, i.e. the regional court (*Landgericht*), to the Supreme Court (*Bundesgerichtshof*)) apply to the European Small Claims Procedure *mutatis mutandis*. In order to file an appeal against a judgment given by the court of first instance, the value of the claim generally has to exceed the amount of EUR 600 (§ 511 (2) No. 1 ZPO). The appeal has to be filed within a time period of one month. The time period starts when the judgment is served. However, it cannot be filed later than five months after the judgment was handed down (§ 517 ZPO). This also applies to the appeal against a judgment given by the court in second instance (§ 548 ZPO).

## 7. Critical assessment

When it comes to matters of competence, it can be observed that hitherto only relatively few states have made use of the possibility of concentration of competence. As noted above, (see already A. IV. 10.) it should be pointed out again that the assessment of the little use of concentration by the states (*Länder*) largely coincides with the general appraisal of specialisation in general. Again, in view of the complexity of the European instruments and the necessity of expert knowledge, a compelling case for concentration of jurisdiction can be made also with regard to the ESCPR. Against that background, the current situation can indeed be criticized, and it may be advisable that other states (*Länder*), that have refrained from directing European Small Claims proceedings to a limited number of courts, accordingly enact legislation to that effect. On a more general note and in view of the aims of the ESCPR “to simplify and speed up litigation concerning small claims in cross-border cases, whilst reducing costs”, the federal legislator – by leaving the states (*Länder*) the option to provide for a concentration of jurisdiction – seems to have struck an appropriate balance between certain degree of proximity to citizens on the one hand and specialization on the other hand.

Contrary to the EPOR, the German implementation rules on the ESCPR contain more elaborate provisions on the means of communication with the courts. Simultaneously, these rules cannot be characterized as having brought about a fundamental change to the ways in which the parties communicate with the court. Nonetheless, it is noteworthy that Germany does indeed allow video-conferencing for oral hearings in line with Art. 8 ESCPR, which leaves the matter to the discretion of the Member States. Additionally, the use of electronic documents with a digital signature are permitted. Both means of communication are, however, not a novelty for German civil procedure, but were rather pre-existing instruments. While the ESCPR, contrary to the Commission’s initial proposal, indeed does not require a



Member State to create new mechanisms, as it suffices that Member States “encourage the use of modern communication technology” (Recital 20), also here (see already A. IV. 10.) it appears that there is room for additional use of IT in order to expedite and simplify proceedings.

## VI. European Account Preservation Order Regulation (EAPOR)

### 1. Competent court

The court responsible for the main action also has local jurisdiction to issue the EAPO (§ 946 (1) ZPO). The court of first instance and, if the main action is pending at the appellate instance, the court of appeal has jurisdiction *ratione materiae* (§§ 946 (1), 943 (1) ZPO). In urgent cases, the presiding judge may decide on the application (§§ 946 (1), 944 ZPO).

If the creditor has obtained an official record pursuant to Art. 4 No. 10 EAPOR which obligates the debtor to settle the claim, the court of the district in which the official record was drawn up has local jurisdiction. In this case, jurisdiction *ratione materiae* depends upon the value of the claim: The local court (*Amtsgericht*) has jurisdiction for all claims not exceeding EUR 5.000, the regional court (*Landgericht*) for all other claims (§§ 23, 71 Courts Constitution Act (*Gerichtsverfassungsgesetz*, hereinafter: GVG)).

The local court (*Amtsgericht*) at the place of enforcement is competent to accept the revocation form pursuant to Art. 10 (2) EAPOR (§ 949 (2) ZPO).

The state governments (*Landesregierungen*) are empowered to concentrate jurisdiction at local courts (*Amtsgerichte*) within their respective state (*Land*) for various remedies under the EAPOR (§ 959 (1) ZPO). Additionally, the state governments are given the opportunity to delegate this power to a lower authority. Therefore, the competent court could potentially vary from state to state. However, none of the 16 states (*Länder*) has actually opted for a concentration of jurisdiction. Only three states (*Länder*) (Saxony-Anhalt, Baden-Württemberg, and Mecklenburg-West Pomerania) have indeed delegated its legislative competence to their respective Ministry of Justice in accordance with § 959 (2) ZPO). However, these authorities have in turn refrained from employing the legislative powers delegated to them. In short, no form of concentration currently exists whatsoever.

### 2. National provisions on the taking of evidence pursuant to Art. 9

The creditor may use every means of evidence and the affirmation in lieu of an oath, provided that the taking of evidence can be conducted immediately (§ 947 (1) ZPO). Therefore, the



evidence admissible for seizure pursuant to national law is also admissible to the proceedings pursuant to the EAPOR.

### 3. Procedure for and means of providing security under Art. 12

In those cases, in which security has to be provided by the creditor pursuant to Art. 12 EAPOR, the court may at its discretion determine the nature of such security and the amount in which it is to be provided (§ 108 (1) ZPO). Unless the court has made provisions in this regard, and unless the parties have not agreed otherwise, security has to be provided in the form of an unconditional, irrevocable, and temporally unlimited bank guarantee, issued in writing by a financial institution authorised in Germany, by lodging cash or by lodging various other securities, such as negotiable instruments, bonds, etc. (cf. § 234 (1), (3) BGB (Civil Code)).

### 4. Liability of the creditor under national law

When it comes to liability of the creditor, German law simply refers to the relevant provision, i.e. Art. 13 (1) and (2) EAPOR (§ 958 ZPO). The implementation provision provides for one other ground of liability, which Art. 13 (3) EAPOR explicitly allows. In the case of an EAPO being unjustified *ab initio*, the creditor is liable for any damage caused to the debtor by execution of the EAPO or as a result of the debtor having to have provided security in order to obtain the release of the preliminary attachment or the stay of enforcement (§ 958 ZPO). This liability, contrary to that under the EAPOR, is not dependent on fault and, therefore, constitutes a strict liability of the creditor. In this regard, it should be noted that the legislator has opted to align the creditor's liability under domestic law, where German law accordingly provides for strict liability (cf. § 945 ZPO).

### 5. Competent authority and methods to obtain account information

The competent authority pursuant to Art. 14 EAPOR is the Federal Office of Justice (*Bundesamt für Justiz*) (§ 948 (1) ZPO), which is the central authority in Germany for numerous matters in the field of international legal cooperation. For example, it is also the Central Authority under the European Maintenance Regulation.

In order to obtain account information, the Federal Office of Justice (*Bundesamt für Justiz*) can in turn request the Federal Central Tax Office (*Bundeszentralamt für Steuern*) to retrieve data from financial institutions (§ 948 (2) ZPO). Such data include in particular contact details, bank account numbers, etc. The Federal Office of Justice (*Bundesamt für Justiz*) is required to maintain various protocols on the collection and deleting of the account information (§ 948 (3) ZPO).



## 6. Means of communication

The decision on the application is served to the creditor pursuant to the German national provisions on service (§§ 166 et seq. ZPO). When it comes to transmission of document (Art. 29 EAPOR), service can be carried out by regular mail, fax or email.

## 7. Appeals and remedies

If the court rejects the creditor's application for an EAPO (Art. 21 (1) EAPOR), the creditor can file a complaint subject to a time limit (*sofortige Beschwerde*) (§ 567 (1) No. 1 ZPO) within a time period of 30 days (§ 953 (1) ZPO), which commences when rejecting decision is served to the creditor (§ 953 (2) ZPO).

If the creditor has failed to prove the initiation of the main proceedings and the EAPO is revoked (Art. 10 (2) EAPOR), the creditor can accordingly file a complaint subject to a time limit (*sofortige Beschwerde*) (§ 567 (1) No. 1 ZPO). The time limit for this remedy is one month starting with the creditor being served the revoking decision (§ 953 (1), (3) ZPO).

If the debtor applies for revocation of an EAPO issued in Germany pursuant to Art. 33 (1) EAPOR, the court that has issued the EAPO is competent (§ 954 (1) ZPO). The court decides on the application without an oral hearing (§ 954 (1) ZPO). The same applies for the debtor's application pursuant to Art. 33 (2) EAPOR (§ 954 (1) ZPO).

When it comes to the remedies of the debtor against the enforcement of the EAPO (Art. 34 (1) EAPOR), the debtor has to file his objection at the local court (*Amtsgericht*) at the place of enforcement (§ 954 (2) in conjunction with § 764 (2) ZPO). The court may declare an exemption from attachment for some of the debtor's assets (§ 954 (2) in conjunction with §§ 850k (4), 850l ZPO).

The German legislator complements the provision of Art. 35 (1) EAPOR by regulating that the court decides on the creditor's or debtor's application without an oral hearing (§ 954 (3) ZPO). However, it has not made use of the possibility to permit the court to revoke the EAPO of its own motion on the grounds of a change of circumstances (Art. 35 (2) EAPOR). For joint applications of the creditor and debtor for revocation and modification (Art. 35 (3) EAPOR) as well as for the creditor's application for modification (Art. 35 (4) EAPOR), the local court (*Amtsgericht*) is competent (§ 954 (3) ZPO). The court decides without an oral hearing (§ 954 (3) ZPO). In the event of a revocation or modification, the local court (*Amtsgericht*) is also the competent authority to inform the bank by forwarding its decision (§ 954 (4) ZPO, cf. Art. 36 (5) EAPOR).



In the case of the debtor providing security pursuant to Art. 38 (1)(b) EAPOR, the debtor has to file his application for termination of the enforcement to the local court (*Amtsgericht*) at the place of enforcement (§ 955 in conjunction with § 764 (2) ZPO). The local court decides without an oral hearing (§ 955 ZPO).

Each party may file a complaint against a court decision allowing a remedy pursuant to Art. 33, 34, 35 EAPOR. The complaint has to be submitted within a time period of two weeks. The time period begins as soon as the court decision is served (§ 956 ZPO). However, the court decision on the complaint itself cannot be appealed (§ 957 ZPO).

## 8. Enforcement procedure

The national procedural provisions regulating the execution proceedings also apply to the execution of the EAPO (§ 950 ZPO). Therefore, the EAPO is executed in the same way as a national enforcement order. The charge vested through the execution of the EAPO has the same rank as a charge by virtue of a national enforcement order (§ 950 in conjunction with § 930 (1) ZPO).

When it comes to service, an EAPO issued by a German court has to be served to the bank by the creditor (§ 951 (1) ZPO). However, if the EAPO is to be executed in a different Member State, the creditor merely has to serve the EAPO to the competent authority of that Member State (§ 951 (1) ZPO). By contrast, the service of the EAPO as well as the service of other relevant documents (Art. 28 (1) EAPOR) to the debtor is initiated by the court that has issued the EAPO (§ 951 (2) ZPO). Thus, the creditor is not involved in the service to the debtor.

When it comes to the execution of an EAPO issued in another Member State, the local court (*Amtsgericht*) at the place of enforcement is competent to receive the EAPO and other documents (Art. 23 (3)(6) EAPOR), to actually enforce the EAPO (Art. 23 (5) EAPOR), to receive the bank's declaration (Art. 25 (3) EAPOR), and to receive the creditor's request to release the over-preserved amounts (Art. 27 (2) EAPOR) (§ 952 (1) No. 1 ZPO). The local court (*Amtsgericht*) has to initiate both the service of the EAPO as well as the debtor's request to release the over-preserved amounts to the bank (§ 952 (2) ZPO).

The local court (*Amtsgericht*) at the debtor's place of residence is competent to serve the EAPO and other documents to debtor (Art. 28 (3) EAPOR (§ 952 (1) No. 2 ZPO).



## 9. Liability of the bank under national law

The liability of the bank is governed by national law (Art. 26 EAPOR). Regrettably, the German legislator has not enacted a specific provision governing the bank's liability in the event that it does not fulfill its duties of Art. 24 and 25 EAPOR. Against that background, the matter is highly controversial in legal scholarship and the current situation is characterized by a high degree of legal uncertainty. In the absence of a dedicated provision, some authors have argued that banks are not liable altogether. Others want to apply by analogy general provisions on the liability of a third-party debtor in the event of an attachment of a claim the enforcement debtor has against the third-party debtor to the benefit of the enforcement creditor. In such a situation, the court directs the third-party debtor to refrain from paying to the debtor (§ 829 (1) ZPO) in order for the creditor to be able to collect the amount owed (§ 835 (1) ZPO). Moreover, the third-party debtor has various information duties with regard to the creditor. For their violation, the third-party debtor is liable vis-à-vis the creditor (§ 840 (2) ZPO). Whether this provision can indeed be applied, appears to be questionable.

## 10. Fees and costs of courts, authorities, and banks

The costs for proceedings to obtain an EAPO at first instance courts amount to factor 1,5 of the fee assessed for the value of the claim (§ 34 GKG) if the EAPO is issued before or during the main proceedings (No. 1410 KV GKG). However, the court costs are reduced to the exact amount of the fee assessed for the value of the claim, if the proceedings end without the court delivering a substantive decision (No. 1411 KV GKG). If the court, on the other hand, does indeed hand down a substantive decision, the court costs are raised to factor 3,0 of this fee (No. 1412 KV GKG). The court costs for proceedings to obtain an EAPO, therefore, correlate with the fee for national proceedings to obtain interim measures.

The costs for proceedings to obtain an EAPO at second instance, however, amount to factor 4,0 of the fee assessed for the value of the claim (§ 34 GKG), if the EAPO is issued before or during the main proceedings (No. 1420 KV GKG). Also in the appeal stage, similar rules apply depending on whether the court rules on the substance of the matter.

If the EAPO is issued after the main proceedings have come to an end, the costs for the proceedings to obtain an EAPO are EUR 22 (No. 2111 KV GKG). Thus, again, the German legislator aims for a synchronization of costs for the proceedings to obtain an EAPO with the costs for national execution proceedings. If the application for the obtainment of account information is filed, the amount of EUR 37 is charged in addition to the aforementioned costs of the proceedings (No. 2112 KV GKG).



The court costs for proceedings to decide on applications for termination, refusal, stay or limitation of enforcement are EUR 33 (No. 2119 KV GKG).

Separate rules apply to the costs for proceedings in labor law and family law matters.

## 11. Other implementation rules

None.

## 12. Critical assessment

The German legislator appears to have made arrangements for the vast majority of matters identified in this reporting template. Particularly when it comes to matters of competence for the various remedies under the EAPOR, the national implementation rules have laid down a detailed framework. In practice, competence largely lies with the local court (*Amtsgericht*). For one of the more prominent and practically important traits of the EAPOR, i.e. the collection of account information, the German legislator has opted for a two-tier structure. The Federal Office of Justice (*Bundesamt für Justiz*) is the central authority, which in turn has to forward information requests to the tax authorities. While this strategy does result in additional administrative expenditures, it nonetheless seems to be a sensible approach, as the Federal Office of Justice (*Bundesamt für Justiz*) serves as the central authority for many instruments in the field of international legal cooperation and therefore routinely deals with matters of the kind at hand.

One of the more prominent gaps in the German implementing legislation appears to be the liability of the bank, which has received insufficient attention in the preparation of the implementation rules and is not being addressed in the legislative materials whatsoever. As a consequence, matters pertaining to Art. 26 EAPOR are surrounded by a great degree of legal uncertainty. This is all the more regrettable, because the liability of the bank is arguably of quintessential importance for the effectiveness of the system created by the EAPOR as a whole. In lack of sufficient incentives, banks may be reluctant to comply with their obligations under the EAPOR altogether or at least in a timely manner, thus allowing the debtor to withdraw or transfer funds. All in all, this matter is in need of clarification.

A final point of critique concerns the implementation rules on time limits. While not of the greatest significance, the rules may nonetheless negatively affect the user-friendliness of the EAPOR under German law. § 953 (2) ZPO implements Art. 21 (2) EAPOR (to which it also explicitly refers) and, by means of declaratory statement and in line with the EAPOR, sets the time limit for an appeal against a refusal to issue the EAPO at 30 days. In the event that the creditor fails to instigate the main proceedings, the court revokes the EAPO in



accordance with Art. 10, which leaves procedural matters to the laws of the Member States (Art. 20 (2) EAPOR). In this respect, § 953 (3) ZPO provides for the remedy of a complaint against the revocation within one month. Consequently, within the implementation provision of § 953 ZPO, two time limits are laid down, i.e. 30 days and one month. On first sight, 30 days and one month appear to be a similar time limit, yet upon closer inspection, they may slightly deviate, at least in some months. The matter is particularly confusing, because different sets of rules apply to the calculation of these time limits. While time limits in European primary and secondary law are calculated in accordance with the Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits – for the present purposes, therefore, also Art. 20 (2) EAPOR and § 953 (2) ZPO –, the calculation of domestic time limits, i.e. also § 953 (3) ZPO, is governed by national law, i.e. in Germany, by §§ 187 et seq. BGB (Civil Code).

## VII. Summary and overall assessment

The general implementation strategy in Germany has been to adopt codified implementation rules. Systematically, the vast majority of provisions were placed in the ZPO in a quite orderly fashion with dedicated sections for each regulation. As regard the implementation strategy on the contents, it can be observed that the German legislator has attempted to rely on pre-existing domestic procedural mechanisms, which are to be applied *mutatis mutandis* pursuant to the implementation rules. While this technique is quite efficient, it could be argued that the provisions are occasionally somewhat difficult to grasp. Overall, however, the German implementation rules provide a solid foundation for the application of the regulations in practice. Competences are clearly distributed, and the course of the proceedings created by the regulation under national law are well organized, e.g. as regards the appropriate remedies under national law, necessity of hearings, information requirements of courts vis a vis the debtor and the creditor, time limits etc. All rules were implemented in a timely manner. Moreover, it is to be acclaimed that the German legislator closely monitored subsequent developments, i.e. after the enactment of the implementation rules, and closed the gap which arose as a result of the CJEU's ruling in the *eco cosmetics*-case. Finally, costs and fees incurred by the parties in connection with the European regulations correspond to those under national law and can, generally, be regarded as relatively low. For example, the costs for an EEO amount to EUR 22.

When it comes to concentration of jurisdiction, the federal German legislator has on one occasion concentrated jurisdiction at a single court in Germany (EPOR), while in other instances, it has given states (*Länder*) the option to provide for concentration at their discretion (ESCR and EAPOR). It was argued that concentration of jurisdiction for the





present purposes is to be acclaimed. Therefore, regrettably, the states (*Länder*) have scarcely made use of the options given to them in the ZPO, as only five (ESCR) and, respectively, none (EAPOR) of the 16 states (*Länder*) have opted to concentrate jurisdiction in one form or another.

Various points of critique can accordingly be mentioned. For example, it is open to discussion whether the judicial officer, who is functionally competent pursuant to the implementation rules for many tasks under the European regulations, can be characterized as a court within their meaning, particularly in connection with the EEOR and in view of the CJEU's *Imtech*-judgment. Moreover, it appears that the possibilities of digitalization are not yet utilized to the fullest. Despite the existence of a legal foundation for an automatized processing of EPO requests, an act to that effect has hitherto not been adopted and, consequently, a corresponding system has not been put in place. However, as regards the ESCR, the legislator has explicitly enabled parties to partake in court hearing via video-conference. A broader use IT could potentially expedite and simplify proceedings to some extent. Finally, an important hiatus concerns the liability of banks vis-à-vis the creditor for any failure to comply with their obligations under the EAPOR.

In conclusion, it can be said that the German implementation rules – despite some open matters – have been successful in providing a framework for the interplay between the systems created by the European regulations and national (procedural) law, ultimately allowing for a potential effective application of these regulations in practice.



## B. Annex: Implementation Rules and Translations

The translations below are based on a translation of the ZPO commissioned by the Federal Ministry of Justice and Consumer Protection, which is available online.<sup>2</sup> Even though the original version in German remains authoritative, it is addressed below as the Ministry translation. The document is not entirely up to date and does not take into account some of the more recent amendments to the ZPO. The affected provisions have been highlighted by a remark.

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<sup>2</sup> [https://www.gesetze-im-internet.de/englisch\\_zpo/englisch\\_zpo.html](https://www.gesetze-im-internet.de/englisch_zpo/englisch_zpo.html) (last consulted 07.01.2021).



Buch 11 Justizielle Zusammenarbeit in der Europäischen Union	Book 11 Judicial collaboration within the European Union
Abschnitt 4 Europäische Vollstreckungstitel nach der Verordnung (EG) Nr. 805/2004	Chapter 4 European enforcement orders pursuant to Council Regulation (EC) No 805/2004
Titel 1 Bestätigung inländischer Titel als Europäische Vollstreckungstitel	Title 1 Certificate of domestic enforcement orders as European enforcement orders



§ 1079 ZPO	§ 1079 ZPO (Ministry translation) <sup>3</sup>
Zuständigkeit	Competence
<p>Für die Ausstellung der Bestätigungen nach</p> <p>1. Artikel 9 Abs. 1, Artikel 24 Abs. 1, Artikel 25 Abs. 1 und</p> <p>2. Artikel 6 Abs. 2 und 3</p> <p>der Verordnung (EG) Nr. 805/2004 sind die Gerichte, Behörden oder Notare zuständig, denen die Erteilung einer vollstreckbaren Ausfertigung des Titels obliegt.</p>	<p><i>Those courts, public authorities, or notaries who are under obligation to issue an enforceable execution copy of the legal title, shall be competent for issuing the European Enforcement Order certificates pursuant to</i></p> <p><i>1. Article 9 (1), Article 24 (1), Article 25 (1); and</i></p> <p><i>2. Article 6 subsections (2) and (3)</i></p> <p><i>of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (Official Journal L 143 page 15.</i></p>

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<sup>3</sup>The Ministry translation of this section has not been updated.



§ 1080 ZPO	§ 1080 ZPO (Ministry translation)
Entscheidung	Decision
<p>(1) Bestätigungen nach Artikel 9 Abs. 1, Artikel 24 Abs. 1, Artikel 25 Abs. 1 und Artikel 6 Abs. 3 der Verordnung (EG) Nr. 805/2004 sind ohne Anhörung des Schuldners auszustellen. Eine Ausfertigung der Bestätigung ist dem Schuldner von Amts wegen zuzustellen.</p> <p>(2) Wird der Antrag auf Ausstellung einer Bestätigung zurückgewiesen, so sind die Vorschriften über die Anfechtung der Entscheidung über die Erteilung einer Vollstreckungsklausel entsprechend anzuwenden.</p>	<p><i>(1) Certificates pursuant to Article 9 (1), Article 24 (1), Article 25 (1), and Article 6 (3) of Council Regulation (EC) No 805/2004 are to be issued without the debtor being heard. An execution of the certificate is to be served on the debtor ex officio.</i></p> <p><i>(2) Where the application for issuance of a certificate is dismissed, the rules regarding the contestation of the decision to issue a court certificate of enforceability shall apply mutatis mutandis.</i></p>



§ 1081 ZPO	§ 1081 ZPO (Ministry translation)
Berichtigung und Widerruf	Rectification and withdrawal
<p>(1) Ein Antrag nach Artikel 10 Abs. 1 der Verordnung (EG) Nr. 805/2004 auf Berichtigung oder Widerruf einer gerichtlichen Bestätigung ist bei dem Gericht zu stellen, das die Bestätigung ausgestellt hat. Über den Antrag entscheidet dieses Gericht. Ein Antrag auf Berichtigung oder Widerruf einer notariellen oder behördlichen Bestätigung ist an die Stelle zu richten, die die Bestätigung ausgestellt hat. Die Notare oder Behörden leiten den Antrag unverzüglich dem Amtsgericht, in dessen Bezirk sie ihren Sitz haben, zur Entscheidung zu.</p> <p>(2) Der Antrag auf Widerruf durch den Schuldner ist nur binnen einer Frist von einem Monat zulässig. Ist die Bestätigung im Ausland zuzustellen, beträgt die Frist zwei Monate. Sie ist eine Notfrist und beginnt mit der Zustellung der Bestätigung, jedoch frühestens mit der Zustellung des Titels, auf den sich die Bestätigung bezieht. In dem Antrag auf Widerruf sind die Gründe darzulegen, weshalb die Bestätigung eindeutig zu Unrecht erteilt worden ist.</p>	<p><i>(1) An application pursuant to Article 10 (1) of Council Regulation (EC) No 805/2004 for the rectification or withdrawal of a court certificate is to be filed with the court that has issued the certificate. That court shall decide on the application. An application for rectification or withdrawal of a notarial certificate, or of a certificate issued by an authority, is to be directed to whichever body has issued the certificate. The notaries or public authorities shall transmit the application without undue delay to the local court (Amtsgericht, AG), for its decision, in the district of which they have their official seat.</i></p> <p><i>(2) The debtor may admissibly file an application for withdrawal only within a period of one (1) month. Should the certificate have to be served abroad, the period shall amount to two (2) months. This is a statutory period and shall begin upon the certificate having been served; it shall begin at the earliest, however, upon the enforcement title having been served to which the certificate makes reference. The application for withdrawal is to set out the grounds for which the certificate was obviously granted wrongly.</i></p> <p><i>(3) Section 319 subsections (2) and 3 shall apply mutatis mutandis to rectification and withdrawal.</i></p>



(3) § 319 Abs. 2 und 3 ist auf die Berichtigung und den Widerruf entsprechend anzuwenden.	
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Titel 2 Zwangsvollstreckung aus Europäischen Vollstreckungstiteln im Inland	Title 2 Compulsory enforcement under European enforcement orders in Germany
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§ 1082 ZPO	§ 1082 ZPO (Ministry translation)
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Vollstreckungstitel	Enforcement title
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Aus einem Titel, der in einem anderen Mitgliedstaat der Europäischen Union nach der Verordnung (EG) Nr. 805/2004 als Europäischer Vollstreckungstitel bestätigt worden ist, findet die Zwangsvollstreckung im Inland statt, ohne dass es einer Vollstreckungsklausel bedarf.	<i>Compulsory enforcement shall be pursued in Germany under an enforcement title that was certified as a European enforcement order in another Member State of the European Union pursuant to Council Regulation (EC) No 805/2004, without this requiring a court certificate of enforceability.</i>
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§ 1083 ZPO	§ 1083 ZPO (Ministry translation)
Übersetzung	Translation
Hat der Gläubiger nach Artikel 20 Abs. 2 Buchstabe c der Verordnung (EG) Nr. 805/2004 eine Übersetzung vorzulegen, so ist diese in deutscher Sprache zu verfassen und von einer hierzu in einem der Mitgliedstaaten der Europäischen Union befugten Person zu beglaubigen.	<i>In cases in which the creditor is to submit a translation prepared in accordance with Article 20 (2) lit. c of Council Regulation (EC) No 805/2004, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union.</i>

§ 1084 ZPO	§ 1084 ZPO (Ministry translation)
Anträge nach den Artikeln 21 und 23 der Verordnung (EG) Nr. 805/2004	Applications pursuant to Articles 21 and 23 of Council Regulation (EC) No 805/2004
(1) Für Anträge auf Verweigerung, Aussetzung oder Beschränkung der Zwangsvollstreckung nach den Artikeln 21 und 23 der Verordnung (EG) Nr. 805/2004	<i>(1) The local court (Amtsgericht, AG) as the court responsible for execution shall be competent for applications for refusal, suspension, or limitation of compulsory enforcement pursuant to Articles 21</i>





<p>ist das Amtsgericht als Vollstreckungsgericht zuständig. Die Vorschriften des Buches 8 über die örtliche Zuständigkeit des Vollstreckungsgerichts sind entsprechend anzuwenden. Die Zuständigkeit nach den Sätzen 1 und 2 ist ausschließlich.</p> <p>(2) Die Entscheidung über den Antrag nach Artikel 21 der Verordnung (EG) Nr. 805/2004 ergeht durch Beschluss. Auf die Einstellung der Zwangsvollstreckung und die Aufhebung der bereits getroffenen Vollstreckungsmaßnahmen sind § 769 Abs. 1 und 3 sowie § 770 entsprechend anzuwenden. Die Aufhebung einer Vollstreckungsmaßregel ist auch ohne Sicherheitsleistung zulässig.</p> <p>(3) Über den Antrag auf Aussetzung oder Beschränkung der Vollstreckung nach Artikel 23 der Verordnung (EG) Nr. 805/2004 wird durch einstweilige Anordnung entschieden. Die Entscheidung ist unanfechtbar.</p>	<p><i>and 23 of Council Regulation (EC) No 805/2004. The stipulations of Book 8 regarding the local competence of the execution court shall apply mutatis mutandis. The competence pursuant to sentences 1 and 2 hereof shall be exclusive.</i></p> <p><i>(2) The decision as to the application pursuant to Article 21 of Council Regulation (EC) No 805/2004 shall be delivered by a court order. Section 769 subsections (1) and (3) as well as section 770 shall apply mutatis mutandis to the termination of compulsory enforcement and the abrogation of enforcement activities already pursued. Enforcement activities may also be abrogated without security being provided.</i></p> <p><i>(3) The decision regarding the suspension or limitation of enforcement pursuant to Article 23 of Council Regulation (EC) No 805/2004 shall be taken by interim order. The decision is incontestable.</i></p>
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§ 1085 ZPO	§ 1085 ZPO (Ministry translation)
Einstellung der Zwangsvollstreckung	Termination of compulsory enforcement
Die Zwangsvollstreckung ist entsprechend den §§ 775 und 776 auch dann einzustellen oder zu beschränken, wenn die Ausfertigung einer Bestätigung über die Nichtvollstreckbarkeit oder über die Beschränkung der Vollstreckbarkeit nach Artikel 6 Abs. 2 der Verordnung (EG) Nr. 805/2004 vorgelegt wird.	<i>Compulsory enforcement is to be stayed or limited in accordance with sections 775 and 776 also in those cases in which the execution of a certificate indicating the lack or limitation of enforceability pursuant to Article 6 (2) of Council Regulation (EC) No 805/2004 is submitted.</i>

§ 1086 ZPO	§ 1086 ZPO (Ministry translation)
Vollstreckungsabwehrklage	Action raising an objection to the claim being enforced enforcement
(1) Für Klagen nach § 795 Satz 1 in Verbindung mit § 767 ist das Gericht ausschließlich örtlich zuständig, in dessen	<i>(1) For actions brought pursuant to section 767, that court shall have exclusive local jurisdiction in the district of which the debtor has his place of</i>



<p>Bezirk der Schuldner seinen Wohnsitz hat, oder, wenn er im Inland keinen Wohnsitz hat, das Gericht, in dessen Bezirk die Zwangsvollstreckung stattfinden soll oder stattgefunden hat. Der Sitz von Gesellschaften oder juristischen Personen steht dem Wohnsitz gleich.</p> <p>(2) § 767 Abs. 2 ist entsprechend auf gerichtliche Vergleiche und öffentliche Urkunden anzuwenden.</p>	<p><i>residence, or, lacking such place of residence in Germany, that court in the district of which compulsory enforcement is to take place or has already taken place.<sup>4</sup> The seats of societies or legal persons shall be equivalent to the place of residence.</i></p> <p><i>(2) Section 767 (2) is to be applied mutatis mutandis to court settlements and public records or documents.</i></p>
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<p><b>Abschnitt 5 Europäisches Mahnverfahren nach der Verordnung (EG) Nr. 1896/2006</b></p>	<p><b>Chapter 5 European order for payment procedure pursuant to Council Regulation (EC) No 1896/2006</b></p>
<p><b>Titel 1 Allgemeine Vorschriften</b></p>	<p><b>Title 1 General regulations</b></p>

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<sup>4</sup>The Ministry translation of the first sentence of the first subsection has not been updated.



§ 1087 ZPO	§ 1087 ZPO (Ministry translation) <sup>5</sup>
Zuständigkeit	Competence
Für die Bearbeitung von Anträgen auf Erlass und Überprüfung sowie die Vollstreckbarerklärung eines Europäischen Zahlungsbefehls nach der Verordnung (EG) Nr. 1896/2006 ist das Amtsgericht Wedding in Berlin ausschließlich zuständig.	<i>The local court (Amtsgericht, AG) of Wedding in Berlin shall have exclusive jurisdiction for processing applications for the issuance and review of a European payment order, as well as for the declaration of its enforceability, pursuant to Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (Official Journal L 399 page 1).</i>

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<sup>5</sup>The Ministry translation of this section has not been updated.



§ 1088 ZPO	§ 1088 ZPO (Ministry translation)
Maschinelle Bearbeitung	Automatic processing
<p>(1) Der Antrag auf Erlass des Europäischen Zahlungsbefehls und der Einspruch können in einer nur maschinell lesbaren Form bei Gericht eingereicht werden, wenn diese dem Gericht für seine maschinelle Bearbeitung geeignet erscheint. § 130a Absatz 5 Satz 1 gilt entsprechend.</p> <p>(2) Der Senat des Landes Berlin bestimmt durch Rechtsverordnung, die nicht der Zustimmung des Bundesrates bedarf, den Zeitpunkt, in dem beim Amtsgericht Wedding die maschinelle Bearbeitung der Mahnverfahren eingeführt wird; er kann die Ermächtigung durch Rechtsverordnung auf die Senatsverwaltung für Justiz des Landes Berlin übertragen.</p>	<p><i>(1) The petition for issuance of the European payment order and the statement of opposition may be transmitted in a form that is only machine-readable if the court deems this format to be suited for its automatic processing systems. Section 130a (3) shall apply mutatis mutandis.</i></p> <p><i>(2) The Senate of the Land of Berlin determines by statutory instrument, which does not require the consent of the Bundesrat, the point in time at which the local court (Amtsgericht, AG) of Wedding is to introduce the automatic processing of summary proceedings for a payment order; it may confer the authorisation by statutory instrument upon the Senate Administration of Justice of the Land of Berlin (Senatsverwaltung für Justiz des Landes Berlin).</i></p>



§ 1089 ZPO	§ 1089 ZPO (Ministry translation)
Zustellung	Service
<p>(1) Ist der Europäische Zahlungsbefehl im Inland zuzustellen, gelten die Vorschriften über das Verfahren bei Zustellungen von Amts wegen entsprechend. Die §§ 185 bis 188 sind nicht anzuwenden.</p> <p>(2) Ist der Europäische Zahlungsbefehl in einem anderen Mitgliedstaat der Europäischen Union zuzustellen, gelten die Vorschriften der Verordnung (EG) Nr. 1393/2007 sowie für die Durchführung § 1068 Abs. 1 und § 1069 Abs. 1 entsprechend.</p>	<p><i>(1) Where the European payment order is to be served in Germany, the rules governing the procedure for service ex officio shall apply mutatis mutandis. Sections 185 to 188 shall not be applied.</i></p> <p><i>(2) Where the European payment order is to be served in another Member State of the European Union, the stipulations of Council Regulation (EC) No 1393/2007 shall apply mutatis mutandis, while section 1068 (1) and section 1069 (1) shall apply mutatis mutandis to the service.</i></p>
Titel 2 Einspruch gegen den Europäischen Zahlungsbefehl	Title 2 Statement of opposition against the European payment order



§ 1090 ZPO	§ 1090 ZPO (Ministry translation)
Verfahren nach Einspruch	Procedure following a statement of opposition
<p>(1) Im Fall des Artikels 17 Abs. 1 der Verordnung (EG) Nr. 1896/2006 fordert das Gericht den Antragsteller mit der Mitteilung nach Artikel 17 Abs. 3 der Verordnung (EG) Nr. 1896/2006 auf, das Gericht zu bezeichnen, das für die Durchführung des streitigen Verfahrens zuständig ist. Das Gericht setzt dem Antragsteller hierfür eine nach den Umständen angemessene Frist und weist ihn darauf hin, dass dem für die Durchführung des streitigen Verfahrens bezeichneten Gericht die Prüfung seiner Zuständigkeit vorbehalten bleibt. Die Aufforderung ist dem Antragsgegner mitzuteilen. Für den Fall, dass der Antragsteller nicht innerhalb der ihm hierfür nach Satz 2 gesetzten Frist das für die Durchführung des streitigen Verfahrens zuständige Gericht benennt, ist der Europäische Zahlungsbefehl aufzuheben. Hierdurch endet das Verfahren nach der Verordnung (EG) Nr. 1896/2006.</p> <p>(2) Nach Eingang der Mitteilung des Antragstellers nach Absatz 1 Satz 1 gibt das</p>	<p><i>(1) In the case provided for by Article 17 (1) of Council Regulation (EC) No 1896/2006, the court shall ask the claimant, in its communication providing the information pursuant to Article 17 (3) of Council Regulation (EC) No 1896/2006, to designate the court competent for implementing the legal proceedings determining whether or not a claim is justified. The court shall set a period for the claimant that is reasonable under the circumstances and shall notify him that the court designated for the implementation of the legal proceedings determining whether or not a claim is justified remains responsible for reviewing whether or not it has jurisdiction. The request shall be communicated also to the respondent.</i></p> <p><i>(2) Upon receipt of the notice by the claimant pursuant to subsection (1), first sentence, the court that has issued the European payment order shall transfer the proceedings ex officio to the court designated by the claimant. Section 696 (1) third to fifth sentences, section 696 subsections (2), (4) and</i></p>



<p>Gericht, das den Europäischen Zahlungsbefehl erlassen hat, das Verfahren von Amts wegen an das vom Antragsteller bezeichnete Gericht ab. § 696 Abs. 1 Satz 3 bis 5, Abs. 2, 4 und 5 sowie § 698 gelten entsprechend.</p> <p>(3) Die Streitsache gilt als mit Zustellung des Europäischen Zahlungsbefehls rechtshängig geworden, wenn sie nach Übersendung der Aufforderung nach Absatz 1 Satz 1 und unter Berücksichtigung der Frist nach Absatz 1 Satz 2 alsbald abgegeben wird.</p>	<p><i>(5) as well as section 698 shall apply mutatis mutandis.<sup>6</sup></i></p> <p><i>(3) The dispute shall be deemed to be pending upon service of the European payment order, provided that it is transferred promptly upon the request pursuant to subsection (1), first sentence, having been sent, and taking account of the period pursuant to subsection (1), second sentence.</i></p>
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<p>§ 1091 ZPO</p>	<p>§ 1091 ZPO (Ministry translation)</p>
<p>Einleitung des Streitverfahrens</p>	<p>Initiation of dispute proceedings</p>
<p>§ 697 Abs. 1 bis 3 gilt entsprechend.</p>	<p><i>Section 697 subsections (1) to (3) shall apply mutatis mutandis.</i></p>

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<sup>6</sup>The Ministry translation of the fifth and sixth sentence of the first subsection has not been updated.





<p><b>Titel 3 Überprüfung des Europäischen Zahlungsbefehls in Ausnahmefällen</b></p>	<p><b>Title 3 Review of the European payment order in exceptional cases</b></p>
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<p><b>§ 1092 ZPO</b></p>	<p><b>§ 1092 ZPO (Ministry translation)</b></p>
<p><b>Verfahren</b></p>	<p><b>Procedure</b></p>
<p>(1) Die Entscheidung über einen Antrag auf Überprüfung des Europäischen Zahlungsbefehls nach Artikel 20 Abs. 1 oder Abs. 2 der Verordnung (EG) Nr. 1896/2006 ergeht durch Beschluss. Der Beschluss ist unanfechtbar.</p> <p>(2) Der Antragsgegner hat die Tatsachen, die eine Aufhebung des Europäischen Zahlungsbefehls begründen, glaubhaft zu machen.</p> <p>(3) Erklärt das Gericht den Europäischen Zahlungsbefehl für nichtig, endet das Verfahren nach der Verordnung (EG) Nr. 1896/2006.</p>	<p><i>(1) The decision regarding the application for review of the European payment order pursuant to Article 20 subsections (1) or (2) of Council Regulation (EC) No 1896/2006 shall be delivered by court order. The court order is incontestable.</i></p> <p><i>(2) The respondent is to substantiate the facts and circumstances on which a repeal of the European payment order should be based.</i></p> <p><i>(3) Should the court declare the European payment order to be null and void, the proceedings pursuant to Council Regulation (EC) No 1896/2006 shall be terminated.</i></p> <p><i>(4) The period pursuant to Article 16 (2) of Council Regulation (EC) No 1896/2006 shall not be reinstated.</i></p>



(4) Eine Wiedereinsetzung in die Frist nach Artikel 16 Abs. 2 der Verordnung (EG) Nr. 1896/2006 findet nicht statt.	
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§ 1092a ZPO	§ 1092a ZPO <sup>7</sup>
Rechtsbehelf bei Nichtzustellung oder bei nicht ordnungsgemäßer Zustellung des Europäischen Zahlungsbefehls	Legal remedy in case of lack of or improper service of a European payment order
<p>(1) Der Antragsgegner kann die Aufhebung des Europäischen Zahlungsbefehls beantragen, wenn ihm der Europäische Zahlungsbefehl</p> <ol style="list-style-type: none"><li>1. nicht zugestellt wurde oder</li><li>2. in einer nicht den Anforderungen der Artikel 13 bis 15 der Verordnung (EG) Nr. 1896/2006 genügenden Weise zugestellt wurde.</li></ol> <p>Der Antrag muss innerhalb eines Monats ab dem Zeitpunkt gestellt werden, zu dem der Antragsgegner Kenntnis vom Erlass des Europäischen Zahlungsbefehls oder des</p>	<p>(1) <i>The respondent may apply for the repeal of the European payment order, if the European payment order</i></p> <ol style="list-style-type: none"><li>1. <i>was not served to him or</i></li><li>2. <i>was served to him in a manner that does not meet the requirements of Article 13 to 15 of Council Regulation (EC) No 1896/2006.</i></li></ol> <p><i>The application must be filed within one (1) month from the time at which the respondent had or could have had knowledge of the issuance of the European payment order or the defect of service. Should the court comply with the application for one of the reasons set out in the first sentence, the</i></p>

<sup>7</sup>The Ministry translation of this section is not available.



<p>Zustellungsmangels gehabt hat oder hätte haben können. Gibt das Gericht dem Antrag aus einem der in Satz 1 genannten Gründe statt, wird der Europäische Zahlungsbefehl für nichtig erklärt.</p> <p>(2) Hat das Gericht zum Zeitpunkt der Antragstellung nach Absatz 1 Satz 1 den Europäischen Zahlungsbefehl bereits nach Artikel 18 der Verordnung (EG) Nr. 1896/2006 für vollstreckbar erklärt und gibt es dem Antrag nunmehr statt, so erklärt es die Zwangsvollstreckung aus dem Zahlungsbefehl für unzulässig. Absatz 1 Satz 3 gilt entsprechend.</p> <p>(3) Die Entscheidung ergeht durch Beschluss. Der Beschluss ist unanfechtbar. § 1092 Absatz 2 bis 4 findet entsprechende Anwendung.</p>	<p><i>European payment order shall be declared to be null and void.</i></p> <p><i>(2) Should the court already have declared the European payment order enforceable pursuant to Article 18 of Council Regulation (EC) No. 1896/2006 at the time of the application, and should it now comply with the application, it shall declare the compulsory enforcement under the European payment order inadmissible. Subsection (1), third sentence, shall apply mutatis mutandis.</i></p> <p><i>(3) The decision shall be delivered by court order. The court order is incontestable. Section 1092 (2) to (4) shall apply mutatis mutandis.</i></p>
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<p><b>Titel 4 Zwangsvollstreckung aus dem Europäischen Zahlungsbefehl</b></p>	<p><b>Title 4 Compulsory enforcement under the European payment order</b></p>
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§ 1093 ZPO	§ 1093 ZPO (Ministry translation)
Vollstreckungsklausel	Court certificate of enforceability
Aus einem nach der Verordnung (EG) Nr. 1896/2006 erlassenen und für vollstreckbar erklärten Europäischen Zahlungsbefehl findet die Zwangsvollstreckung im Inland statt, ohne dass es einer Vollstreckungsklausel bedarf.	<i>Compulsory enforcement is an available remedy in Germany under a European payment order issued and declared enforceable pursuant to Council Regulation (EC) No 1896/2006, without this requiring a court certificate of enforceability.</i>

§ 1094 ZPO	§ 1094 ZPO (Ministry translation)
Übersetzung	Translation
Hat der Gläubiger nach Artikel 21 Abs. 2 Buchstabe b der Verordnung (EG) Nr. 1896/2006 eine Übersetzung vorzulegen, so ist diese in deutscher Sprache zu verfassen und von einer in einem der Mitgliedstaaten der Europäischen Union hierzu befugten Person zu beglaubigen.	<i>If the creditor is to submit a translation pursuant to Article 21 (2) lit. b of Council Regulation (EC) No 1896/2006, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union.</i>



§ 1095 ZPO	§ 1095 ZPO (Ministry translation)
Vollstreckungsschutz und Vollstreckungsabwehrklage gegen den im Inland erlassenen Europäischen Zahlungsbefehl	Protection against enforcement; action raising an objection to the claim being enforced under the European payment order issued in Germany
<p>(1) Wird die Überprüfung eines im Inland erlassenen Europäischen Zahlungsbefehls nach Artikel 20 der Verordnung (EG) Nr. 1896/2006 oder dessen Aufhebung nach § 1092a beantragt, gilt § 707 entsprechend. Für die Entscheidung über den Antrag nach § 707 ist das Gericht zuständig, das über den Antrag nach Artikel 20 der Verordnung (EG) Nr. 1896/2006 entscheidet.</p> <p>(2) Einwendungen, die den Anspruch selbst betreffen, sind nur insoweit zulässig, als die Gründe, auf denen sie beruhen, nach Zustellung des Europäischen Zahlungsbefehls entstanden sind und durch Einspruch nach Artikel 16 der Verordnung</p>	<p><i>(1) Insofar as the review of a European payment order issued in Germany is applied for in accordance with Article 20 of Council Regulation (EC) No 1896/2006, section 707 shall apply mutatis mutandis.<sup>8</sup> That court shall be competent to take the decision on the petition filed pursuant to section 707 that is to decide on the application filed pursuant to Article 20 of Council Regulation (EC) No 1896/2006.</i></p> <p><i>(2) Statements of opposition concerning the claim as such may admissibly be filed only insofar as the reasons on which they are based arose following service of the European payment order and thus can no longer be asserted by filing an</i></p>

<sup>8</sup>The Ministry translation of the first sentence of the first subsection has not been updated.



(EG) Nr. 1896/2006 nicht mehr geltend gemacht werden können.	<i>opposition in accordance with Article 16 of Council Regulation (EC) No 1896/2006.</i>
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§ 1096 ZPO

§ 1096 ZPO (Ministry translation)

Anträge nach den Artikeln 22 und 23 der Verordnung (EG) Nr. 1896/2006; Vollstreckungsabwehrklage

Applications pursuant to Articles 22 and 23 of Council Regulation (EC) No 1896/2006; action raising an objection to the claim being enforced

(1) Für Anträge auf Verweigerung der Zwangsvollstreckung nach Artikel 22 Abs. 1 der Verordnung (EG) Nr. 1896/2006 gilt § 1084 Abs. 1 und 2 entsprechend. Für Anträge auf Aussetzung oder Beschränkung der Zwangsvollstreckung nach Artikel 23 der Verordnung (EG) Nr. 1896/2006 ist § 1084 Abs. 1 und 3 entsprechend anzuwenden.

*(1) Section 1084 subsections (1) and (2) shall apply mutatis mutandis to applications that compulsory enforcement be refused pursuant to Article 22 (1) of Council Regulation (EC) No 1896/2006. Section 1084 subsections (1) and (3) shall apply mutatis mutandis to applications for suspension or limitation of compulsory enforcement pursuant to Article 23 of Council Regulation (EC) No 1896/2006.*

(2) Für Anträge auf Verweigerung der Zwangsvollstreckung nach Artikel 22 Abs. 2 der Verordnung (EG) Nr. 1896/2006 gilt § 1086 Abs. 1 entsprechend. Für Klagen nach § 795 Satz 1 in Verbindung mit § 767 sind § 1086 Abs. 1 und § 1095 Abs. 2 entsprechend anzuwenden.

*(2) Section 1086 (1) shall apply mutatis mutandis to applications for refusal of compulsory enforcement pursuant to Article 22 (2) of Council Regulation (EC) No 1896/2006. Section 1086 (1) and section 1095 (2) shall*



	<i>apply mutatis mutandis to actions pursuant to section 767.<sup>9</sup></i>
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Abschnitt 6 Europäisches Verfahren für geringfügige Forderungen nach der Verordnung (EG) Nr. 861/2007	Chapter 6 European small claims procedure pursuant to Council Regulation (EC) No 861/2007
Titel 1 Erkenntnisverfahren	Title 1 Procedure serving the judicial decision of a court

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<sup>9</sup>The Ministry translation of the second sentence of the second subsection has not been updated.



§ 1097 ZPO	§ 1097 ZPO (Ministry translation)
Einleitung und Durchführung des Verfahrens	Commencement and conduct of the procedure
<p>(1) Die Formblätter gemäß der Verordnung (EG) Nr. 861/2007 und andere Anträge oder Erklärungen können als Schriftsatz, als Telekopie oder nach Maßgabe des § 130a als elektronisches Dokument bei Gericht eingereicht werden.</p> <p>(2) Im Fall des Artikels 4 Abs. 3 der Verordnung (EG) Nr. 861/2007 wird das Verfahren über die Klage ohne Anwendung der Vorschriften der Verordnung (EG) Nr. 861/2007 fortgeführt.</p>	<p><i>(1) The standard claim forms provided for by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (Official Journal L 199 page 1) as well as other applications or declarations may be submitted to the court as a written pleading, a telefax copy or, subject to the provisions made in section 130a, as electronic documents.<sup>10</sup></i></p> <p><i>(2) In the case provided for by of Article 4 (3) of Council Regulation (EC) No 861/2007, the court shall proceed with the claim without applying the stipulations of Council Regulation (EC) No 861/2007.</i></p>

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<sup>10</sup> The Ministry translation of the first subsection has not been updated.





§ 1098 ZPO	§ 1098 ZPO (Ministry translation)
Annahmeverweigerung auf Grund der verwendeten Sprache	Refusal to accept a record or document by reason of its language
Die Frist zur Erklärung der Annahmeverweigerung nach Artikel 6 Abs. 3 der Verordnung (EG) Nr. 861/2007 beträgt eine Woche. Sie ist eine Notfrist und beginnt mit der Zustellung des Schriftstücks. Der Empfänger ist über die Folgen einer Versäumung der Frist zu belehren.	<i>The period for declaring the refusal to accept a record or document pursuant to Article 6 (3) of Council Regulation (EC) No 861/2007 shall be one (1) week. This is a statutory period and shall begin upon the record or document being served. The recipient is to be instructed as to the consequences of failing to comply with that period.</i>

§ 1099 ZPO	§ 1099 ZPO (Ministry translation)
Widerklage	Counterclaim
(1) Eine Widerklage, die nicht den Vorschriften der Verordnung (EG) Nr. 861/2007 entspricht, ist außer im Fall des Artikels 5 Abs. 7 Satz 1 der Verordnung	<i>(1) A counterclaim that does not correspond to the stipulations of Council Regulation (EC) No 861/2007 is to be dismissed as inadmissible, to the exception of the case provided for by Article 5 (7),</i>



<p>(EG) Nr. 861/2007 als unzulässig abzuweisen.</p> <p>(2) Im Fall des Artikels 5 Abs. 7 Satz 1 der Verordnung (EG) Nr. 861/2007 wird das Verfahren über die Klage und die Widerklage ohne Anwendung der Vorschriften der Verordnung (EG) Nr. 861/2007 fortgeführt. Das Verfahren wird in der Lage übernommen, in der es sich zur Zeit der Erhebung der Widerklage befunden hat.</p>	<p><i>first sentence, of Council Regulation (EC) No 861/2007.</i></p> <p><i>(2) In the case provided for by Article 5 (7), first sentence, of Council Regulation (EC) No 861/2007, the court shall proceed with the claim and the counterclaim without applying the stipulations of Council Regulation (EC) No 861/2007. The procedure shall be taken over in the situation it was in at the time the counterclaim was brought.</i></p>
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<p>§ 1100 ZPO</p>	<p>§ 1100 ZPO (Ministry translation)</p>
<p>Mündliche Verhandlung</p>	<p>Oral hearing</p>
<p>(1) Das Gericht kann den Parteien sowie ihren Bevollmächtigten und Beiständen gestatten, sich während einer Verhandlung an einem anderen Ort aufzuhalten und dort Verfahrenshandlungen vorzunehmen. § 128a Abs. 1 Satz 2 und Abs. 3 Satz 1 bleibt unberührt.</p>	<p><i>(1) The court may permit the parties, as well as their attorneys-in-fact and persons providing assistance, to be at a different location during an oral hearing and to take procedural action at that venue. Section 128a subsection (1), second sentence, and subsection (3) shall remain unaffected hereby.<sup>11</sup></i></p> <p><i>(2) The determination of an advance first oral hearing (section 275) is ruled out.</i></p>

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<sup>11</sup> The Ministry translation of the second sentence of the first subsection has not been updated.



(2) Die Bestimmung eines frühen ersten Termins zur mündlichen Verhandlung (§ 275) ist ausgeschlossen.	
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§ 1101 ZPO	§ 1101 ZPO (Ministry translation)
Beweisaufnahme	Taking of evidence
<p>(1) Das Gericht kann die Beweise in der ihm geeignet erscheinenden Art aufnehmen, soweit Artikel 9 Abs. 2 bis 4 der Verordnung (EG) Nr. 861/2007 nichts anderes bestimmt.</p> <p>(2) Das Gericht kann einem Zeugen, Sachverständigen oder einer Partei gestatten, sich während einer Vernehmung an einem anderen Ort aufzuhalten. § 128a Abs. 2 Satz 2, 3 und Abs. 3 Satz 1 bleibt unberührt.</p>	<p>(1) <i>The court may take evidence in the manner it deems suitable, unless otherwise provided for by Article 9 subsections (2) and (3) of Council Regulation (EC) No 861/2007.<sup>12</sup></i></p> <p>(2) <i>The court may permit a witness, expert, or a party to be at a different location during an oral hearing. Section 128a subsection (2) second and third sentences and subsection (3) shall remain unaffected hereby.<sup>13</sup></i></p>

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<sup>12</sup> The Ministry translation of the first subsection has not been updated.

<sup>13</sup> The Ministry translation of the second sentence of the second subsection has not been updated.



§ 1102 ZPO	§ 1102 ZPO (Ministry translation)
Urteil	Judgment
Urteile bedürfen keiner Verkündung. Die Verkündung eines Urteils wird durch die Zustellung ersetzt.	<i>Judgments need not be pronounced. The service of a judgment shall take the stead of its pronouncement.</i>

§ 1103 ZPO	§ 1103 ZPO (Ministry translation)
Säumnis	Failure to comply with procedural rules
Äußert sich eine Partei binnen der für sie geltenden Frist nicht oder erscheint sie nicht zur mündlichen Verhandlung, kann das Gericht eine Entscheidung nach Lage der Akten erlassen. § 251a ist nicht anzuwenden.	<i>Should a party fail to make a statement within the period set for it, or should it fail to appear at the hearing for oral argument, the court shall take its decision on the basis of the record as it stands. Section 251a shall not be applied.</i>



§ 1104 ZPO	§ 1104 ZPO (Ministry translation)
Abhilfe bei unverschuldeter Säumnis des Beklagten	Redress granted in the event the defendant failed to comply with procedural rules through no fault of his own
<p>(1) Liegen die Voraussetzungen des Artikels 18 Abs. 1 und 2 der Verordnung (EG) Nr. 861/2007 vor, wird das Verfahren fortgeführt; es wird in die Lage zurückversetzt, in der es sich vor Erlass des Urteils befand. Auf Antrag stellt das Gericht die Nichtigkeit des Urteils durch Beschluss fest.</p> <p>(2) Der Beklagte hat die tatsächlichen Voraussetzungen des Artikels 18 Abs. 1 und 2 der Verordnung (EG) Nr. 861/2007 glaubhaft zu machen.</p>	<p><i>(1) Given the prerequisites of Article 18 (1) of Council Regulation (EC) No 861/2007, the procedure shall be continued; that status shall be reinstated that the procedure was in prior to the judgment having been entered.<sup>14</sup> Upon corresponding application being made, the court shall determine by court order that the judgment is null and void.</i></p> <p><i>(2) The defendant is to demonstrate satisfactorily that the prerequisites of Article 18 (1) of Council Regulation (EC) No 861/2007 are given.<sup>15</sup></i></p>

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<sup>14</sup> The Ministry translation of the first sentence of the first subsection has not been updated.

<sup>15</sup> The Ministry translation of the second subsection has not been updated.



§ 1104a ZPO	§ 1104a ZPO <sup>16</sup>
Gemeinsame Gerichte	Common Courts
<p>Die Landesregierungen werden ermächtigt, durch Rechtsverordnung einem Amtsgericht für die Bezirke</p> <p>mehrerer Amtsgerichte und einem Landgericht für die Bezirke mehrerer Landgerichte die Angelegenheiten in europäischen Verfahren für geringfügige Forderungen nach der Verordnung (EG) Nr. 861/2007 zuzuweisen, wenn dies der sachlichen Förderung der Verfahren dient. Die Landesregierungen können die Ermächtigung auf die Landesjustizverwaltungen übertragen.</p>	<p><i>The state governments are empowered to assign one local court acting for the districts of several local courts and one regional court acting for the districts of several regional courts by statutory instrument in matters of European Small Claims Procedures under regulation (EC) No. 861/2007, if this serves the objective promotion of the procedure.</i></p> <p><i>The state governments may transfer the authorization to the state administrations of justice.</i></p>
Titel 2 Zwangsvollstreckung	Title 2 Compulsory enforcement

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<sup>16</sup> The Ministry translation of this section is not available.



§ 1105 ZPO	§ 1105 ZPO (Ministry translation)
Zwangsvollstreckung inländischer Titel	Compulsory enforcement of domestic enforcement titles
<p>(1) Urteile sind für vorläufig vollstreckbar ohne Sicherheitsleistung zu erklären. Die §§ 712 und 719 Abs. 1 Satz 1 in Verbindung mit § 707 sind nicht anzuwenden.</p> <p>(2) Für Anträge auf Beschränkung der Zwangsvollstreckung nach Artikel 15 Abs. 2 in Verbindung mit Artikel 23 der Verordnung (EG) Nr. 861/2007 ist das Gericht der Hauptsache zuständig. Die Entscheidung ergeht im Wege einstweiliger Anordnung. Sie ist unanfechtbar. Die tatsächlichen Voraussetzungen des Artikels 23 der Verordnung (EG) Nr. 861/2007 sind glaubhaft zu machen.</p>	<p><i>(1) Judgments are to be declared provisionally enforceable without provision of security. Sections 712 and 719 (1), first sentence, in conjunction with section 707 are not to be applied.</i></p> <p><i>(2) The court before which the main action is being pursued is competent for applications to limitation of enforcement pursuant to Article 15 (2) in conjunction with Article 23 of Council Regulation (EC) No 861/2007. The decision shall be delivered by a preliminary order. It is incontestable. The factual prerequisites of Article 23 of Council Regulation (EC) No 861/2007 are to be demonstrated to the satisfaction of the court.</i></p>



§ 1106 ZPO	§ 1106 ZPO (Ministry translation)
Bestätigung inländischer Titel	Certificate of domestic enforcement titles
<p>(1) Für die Ausstellung der Bestätigung nach Artikel 20 Abs. 2 der Verordnung (EG) Nr. 861/2007 ist das Gericht zuständig, dem die Erteilung einer vollstreckbaren Ausfertigung des Titels obliegt.</p> <p>(2) Vor Ausfertigung der Bestätigung ist der Schuldner anzuhören. Wird der Antrag auf Ausstellung einer Bestätigung zurückgewiesen, so sind die Vorschriften über die Anfechtung der Entscheidung über die Erteilung einer Vollstreckungsklausel entsprechend anzuwenden.</p>	<p><i>(1) That court shall be competent to issue the certificate provided for by Article 20 (2) of Council Regulation (EC) No 861/2007 that is responsible for the issuance of an enforceable execution copy of the legal title.</i></p> <p><i>(2) The debtor is to be heard prior to the certificate being executed. If the application for issuance of a certificate is dismissed, the rules governing the contestation of the decision to issue a court certificate of enforceability shall apply mutatis mutandis.</i></p>





§ 1107 ZPO	§ 1107 ZPO (Ministry translation)
Ausländische Vollstreckungstitel	Foreign enforcement titles
Aus einem Titel, der in einem Mitgliedstaat der Europäischen Union nach der Verordnung (EG) Nr. 861/2007 ergangen ist, findet die Zwangsvollstreckung im Inland statt, ohne dass es einer Vollstreckungsklausel bedarf.	<i>Compulsory enforcement shall be pursued in Germany based on an enforcement title issued in a Member State of the European Union pursuant to Council Regulation (EC) No 861/2007 without requiring a court certificate of enforceability.</i>

§ 1108 ZPO	§ 1108 ZPO (Ministry translation)
Übersetzung	Translation
Hat der Gläubiger nach Artikel 21 Abs. 2 Buchstabe b der Verordnung (EG) Nr. 861/2007 eine Übersetzung vorzulegen, so ist diese in deutscher Sprache zu verfassen und von einer in einem der Mitgliedstaaten der Europäischen Union hierzu befugten Person zu erstellen.	<i>If the creditor is to submit a translation pursuant to Article 21 (2) lit. b of Council Regulation (EC) No 861/2007, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union.</i>



§ 1109 ZPO	§ 1109 ZPO (Ministry translation)
Anträge nach den Artikeln 22 und 23 der Verordnung (EG) Nr. 861/2007; Vollstreckungsabwehrklage	Applications pursuant to Articles 22 and 23 of Council Regulation (EC) No 861/2007; action raising an objection to the claim being enforced
(1) Auf Anträge nach Artikel 22 der Verordnung (EG) Nr. 861/2007 ist § 1084 Abs. 1 und 2 entsprechend anzuwenden. Auf Anträge nach Artikel 23 der Verordnung (EG) Nr. 861/2007 ist § 1084 Abs. 1 und 3 entsprechend anzuwenden. (2) § 1086 gilt entsprechend.	<i>(1) Section 1084 subsections (1) and (2) shall apply mutatis mutandis to applications pursuant to Article 22 of Council Regulation (EC) No 861/2007. Section 1084 subsections (1) and (3) shall apply mutatis mutandis to applications pursuant to Article 23 of Council Regulation (EC) No 861/2007. (2) Section 1086 shall apply mutatis mutandis.</i>



Abschnitt 7 Anerkennung und Vollstreckung nach der Verordnung (EU) Nr. 1215/2012	Chapter 7 Recognition and Enforcement pursuant to Council Regulation (EC) No 1215/2012 <sup>17</sup>
Titel 1 Bescheinigung über inländische Titel	Title 1 Certificate of domestic enforcement titles

§ 1110 ZPO	§ 1110 ZPO
Zuständigkeit	Competence
Für die Ausstellung der Bescheinigung nach den Artikeln 53 und 60 der Verordnung (EU) Nr. 1215/2012 sind die Gerichte oder Notare zuständig, denen die Erteilung einer vollstreckbaren Ausfertigung des Titels obliegt.	<i>Those courts or notaries shall be competent to issue the certificate provided for by Article 53 and 60 of Council Regulation (EU) No 1215/2012 that are responsible for the issuance of an enforceable execution copy of the legal title.</i>

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<sup>17</sup> The Ministry translation of this chapter on the Brussels Ia Regulation is not available.



§ 1111 ZPO	§ 1111 ZPO
Verfahren	Procedure
<p>(1) Bescheinigungen nach den Artikeln 53 und 60 der Verordnung (EU) Nr. 1215/2012 sind ohne Anhörung des Schuldners auszustellen. In den Fällen des § 726 Absatz 1 und der §§ 727 bis 729 kann der Schuldner vor der Ausstellung der Bescheinigung gehört werden. Eine Ausfertigung der Bescheinigung ist dem Schuldner von Amts wegen zuzustellen.</p> <p>(2) Für die Anfechtbarkeit der Entscheidung über die Ausstellung der Bescheinigung nach Absatz 1 gelten die Vorschriften über die Anfechtbarkeit der Entscheidung über die Erteilung der Vollstreckungsklausel entsprechend.</p>	<p><i>(1) Certificates pursuant to Article 53 and 60 of Council Regulation (EU) No 1215/2012 are to be issued without the debtor being heard. In the cases of section 726 (1) and sections 727 to 729 the debtor may be heard prior to the issuance of the certificate. An execution of the certificate is to be served on the debtor ex officio.</i></p> <p><i>(2) The rules regarding the contestability of the decision to issue a court certificate of enforceability shall apply mutatis mutandis to the contestability of the decision to issue a certificate pursuant to subsection (1).</i></p>
Titel 2 Anerkennung und Vollstreckung ausländischer Titel im Inland	Title 2 Recognition and enforcement of foreign enforcement titles in Germany



§ 1112 ZPO	§ 1112 ZPO
Entbehrlichkeit der Vollstreckungsklausel	Dispensability of the court certificate of enforceability
Aus einem Titel, der in einem anderen Mitgliedstaat der Europäischen Union vollstreckbar ist, findet die Zwangsvollstreckung im Inland statt, ohne dass es einer Vollstreckungsklausel bedarf.	<i>Compulsory enforcement shall be pursued in Germany under an enforcement title that is enforceable in another Member State of the European Union, without this requiring a court certificate of enforceability.</i>

§ 1113 ZPO	§ 1113 ZPO
Übersetzung oder Transliteration	Translation or transliteration
Hat eine Partei nach Artikel 57 der Verordnung (EU) Nr. 1215/2012 eine Übersetzung oder eine Transliteration vorzulegen, so ist diese in deutscher Sprache abzufassen und von einer in einem Mitgliedstaat der Europäischen Union hierzu befugten Person zu erstellen.	<i>In cases in which a party is to submit a translation or transliteration pursuant to Article 57 of Council Regulation (EU) No 1215/2012, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union.</i>



§ 1114 ZPO	§ 1114 ZPO
Anfechtung der Anpassung eines Titels	Contestation of the adaptation of a legal title
<p>Für die Anfechtung der Anpassung eines Titels (Artikel 54 der Verordnung (EU) Nr. 1215/2012) sind folgende Rechtsgrundlagen entsprechend anzuwenden:</p> <ol style="list-style-type: none"><li>1. im Fall von Maßnahmen des Gerichtsvollziehers oder des Vollstreckungsgerichts § 766,</li><li>2. im Fall von Entscheidungen des Vollstreckungsgerichts oder von Vollstreckungsmaßnahmen des Prozessgerichts § 793 und</li><li>3. im Fall von Vollstreckungsmaßnahmen des Grundbuchamts § 71 der Grundbuchordnung.</li></ol>	<p><i>The following legal bases shall apply mutatis mutandis to the contestation of the adaptation of a legal title (Article 54 of Council Regulation (EU) No 1215/2012):</i></p> <ol style="list-style-type: none"><li><i>1. in the case of measures taken by the court officer or the execution court section 766,</i></li><li><i>2. in the case of decisions taken by the execution court or enforcement measures taken by the trial court section 793 and</i></li><li><i>3. in the case of enforcement measures taken by the land registry section 71 of the German Land Registration Code.</i></li></ol>



§ 1115 ZPO	§ 1115 ZPO
Versagung der Anerkennung oder der Vollstreckung	Refusal of recognition or enforcement
<p>(1) Für Anträge auf Versagung der Anerkennung oder der Vollstreckung (Artikel 45 Absatz 4 und Artikel 47 Absatz 1 der Verordnung (EU) Nr. 1215/2012) ist das Landgericht ausschließlich zuständig.</p> <p>(2) Örtlich zuständig ist ausschließlich das Landgericht, in dessen Bezirk der Schuldner seinen Wohnsitz hat. Hat der Schuldner im Inland keinen Wohnsitz, ist ausschließlich das Landgericht zuständig, in dessen Bezirk die Zwangsvollstreckung durchgeführt werden soll. Der Sitz von Gesellschaften und juristischen Personen steht dem Wohnsitz gleich.</p> <p>(3) Der Antrag auf Versagung kann bei dem zuständigen Landgericht schriftlich eingereicht oder mündlich zu Protokoll der Geschäftsstelle erklärt werden.</p> <p>(4) Über den Antrag auf Versagung entscheidet der Vorsitzende einer Zivilkammer durch Beschluss. Der Beschluss ist zu begründen und kann ohne mündliche Verhandlung ergehen. Der Antragsgegner ist vor der Entscheidung zu hören.</p>	<p><i>(1) The regional court shall have exclusive jurisdiction for applications for refusal of recognition or enforcement (Article 45 (4) and Article 47 (1) of Council Regulation (EU) No 1215/2012).</i></p> <p><i>(2) That regional court shall have exclusive local jurisdiction in the district of which the debtor has his place of residence. Lacking such place of residence in Germany, that court in the district of which compulsory enforcement is to take place shall have exclusive local jurisdiction. The seats of societies or legal persons shall be equivalent to the place of residence.</i></p> <p><i>(3) The application for refusal may be submitted to the competent court in writing or declared orally on the record of the court registry.</i></p> <p><i>(4) The presiding judge of a civil chamber shall decide on the application for refusal by court order. The court order is to be substantiated and may be issued without an oral hearing. The respondent is to be heard prior to the decision being made.</i></p> <p><i>(5) A complaint subject to a time limit may be filed against the decision. The statutory period pursuant</i></p>



<p>(5) Gegen die Entscheidung findet die sofortige Beschwerde statt. Die Notfrist des § 569 Absatz 1 Satz 1 beträgt einen Monat und beginnt mit der Zustellung der Entscheidung. Gegen den Beschluss des Beschwerdegerichts findet die Rechtsbeschwerde statt.</p> <p>(6) Über den Antrag auf Aussetzung oder Beschränkung der Vollstreckung und den Antrag, die Vollstreckung von der Leistung einer Sicherheit abhängig zu machen (Artikel 44 Absatz 1 der Verordnung (EU) Nr. 1215/2012), wird durch einstweilige Anordnung entschieden. Die Entscheidung ist unanfechtbar.</p>	<p><i>to section 569 (1), first sentence, shall amount to one (1) month and begin upon the decision having been served. A complaint on points of law may be filed against the decision of the court hearing the complaint.</i></p> <p><i>(6) The decision regarding the suspension or limitation of enforcement and the decision regarding the application to make enforcement dependent on the provision of security (Article 44 (1) of Council Regulation (EU) No. 1215/2012) shall be taken by interim order. The decision is incontestable.</i></p>
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<p>§ 1116 ZPO</p>	<p>§ 1116 ZPO</p>
<p>Wegfall oder Beschränkung der Vollstreckbarkeit im Ursprungsmitgliedstaat</p>	<p>Suspension or limitation of enforceability in the Member State of origin</p>
<p>Auf Antrag des Schuldners (Artikel 44 Absatz 2 der Verordnung (EU) Nr. 1215/2012) ist die Zwangsvollstreckung entsprechend § 775 Nummer 1 und 2 und § 776 auch dann einzustellen oder zu beschränken, wenn der Schuldner eine Entscheidung eines Gerichts des Ursprungsmitgliedstaats über die</p>	<p><i>Upon corresponding application being made by the debtor (Article 44 (2) of Council Regulation 1215/2012), compulsory enforcement is to be stayed or limited in accordance with section 775 No 1 and 2 and section 776 also in those cases in which the debtor submits a decision of a court of the Member State of origin regarding the lack or limitation of enforceability. Upon request of the</i></p>





Nichtvollstreckbarkeit oder über die Beschränkung der Vollstreckbarkeit vorlegt. Auf Verlangen des Vollstreckungsorgans ist eine Übersetzung der Entscheidung vorzulegen. § 1108 gilt entsprechend.	<i>enforcing body a translation of the decision is to be submitted. Section 1108 shall apply mutatis mutandis.</i>
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§ 1117 ZPO	§ 1117 ZPO
Vollstreckungsabwehrklage	Action raising an objection to the claim being enforced enforcement
(1) Für Klagen nach § 795 Satz 1 in Verbindung mit § 767 gilt § 1086 Absatz 1 entsprechend.  (2) Richtet sich die Klage gegen die Vollstreckung aus einem gerichtlichen Vergleich oder einer öffentlichen Urkunde, ist § 767 Absatz 2 nicht anzuwenden.	(1) <i>Section 1086 (1) shall apply mutatis mutandis to actions pursuant to section 767.</i>  (2) <i>If the action is directed against enforcement under court settlement or public record or document, section 767 (2) shall not be applied.</i>



Buch 8 Zwangsvollstreckung	Book 8 Compulsory enforcement
Abschnitt 6 Grenzüberschreitende vorläufige Kontenpfändung	Chapter 6 Cross-border preliminary attachment <sup>18</sup>
Titel 1 Erlass des Beschlusses zur vorläufigen Kontenpfändung	Title 1 Issuance of the court order for preliminary attachment

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<sup>18</sup> The Ministry translation of this chapter is not available.



§ 946 ZPO	§ 946 ZPO
Zuständigkeit	Competence
<p>(1) Für den Erlass des Beschlusses zur vorläufigen Kontenpfändung nach der Verordnung (EU) Nr. 655/2014 des Europäischen Parlaments und des Rates vom 15. Mai 2014 zur Einführung eines Verfahrens für einen Europäischen Beschluss zur vorläufigen Kontenpfändung im Hinblick auf die Erleichterung der grenzüberschreitenden Eintreibung von Forderungen in Zivil- und Handelssachen (ABl. L 189 vom 27.6.2014, S. 59) ist das Gericht der Hauptsache zuständig. Die §§ 943 und 944 gelten entsprechend.</p> <p>(2) Hat der Gläubiger bereits eine öffentliche Urkunde (Artikel 4 Nummer 10 der Verordnung (EU) Nr. 655/2014) erwirkt, in der der Schuldner verpflichtet wird, die Forderung zu erfüllen, ist das Gericht zuständig, in dessen Bezirk die Urkunde errichtet worden ist.</p>	<p><i>(1) The court before which the main action is being pursued is competent for the issuance of the court order for preliminary attachment pursuant to Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (Official Journal L 189, 27.6.2014, page 59). Sections 943 and 944 shall apply mutatis mutandis.</i></p> <p><i>(2) In cases in which the creditor already obtained a public record or document (Article 4 No 10 of Council Regulation (EU) No 655/2014) obliging the debtor to fulfill the claim, that court in the district of which the public record or document was established shall be competent.</i></p>



§ 947 ZPO	§ 947 ZPO
Verfahren	Procedure
<p>(1) Der Gläubiger kann sich in dem Verfahren auf Erlass des Beschlusses zur vorläufigen Kontenpfändung aller Beweismittel sowie der Versicherung an Eides statt bedienen. Nur eine Beweisaufnahme, die sofort erfolgen kann, ist statthaft.</p> <p>(2) Das Gericht darf die ihm nach Artikel 14 Absatz 6 der Verordnung (EU) Nr. 655/2014 übermittelten Kontoinformationen für die Zwecke des jeweiligen Verfahrens auf Erlass eines Beschlusses zur vorläufigen Kontenpfändung speichern, übermitteln und nutzen. Soweit übermittelte Kontoinformationen für den Erlass des Beschlusses zur vorläufigen Kontenpfändung nicht erforderlich sind, sind sie unverzüglich zu löschen oder ist deren Verarbeitung einzuschränken. Die Löschung ist zu protokollieren. § 802d Absatz 1 Satz 3 gilt entsprechend.</p>	<p><i>(1) The creditor may use all evidence as well as a statutory declaration in lieu of an oath in the proceedings for issuance of the court order for preliminary attachment. Only evidence that can be taken immediately shall be admitted.</i></p> <p><i>(2) The court may store, transmit and use the account information transmitted to it pursuant to Article 14 (6) of Council Regulation (EU) No 655/2014 for the purposes of the respective proceedings for issuance of a court order for preliminary attachment. Insofar as the transmitted account information is not necessary for the issuance of the court order for preliminary attachment, it is to be deleted without undue delay or its processing is to be limited. The deletion is to be recorded. Section 802d (1), third sentence, shall apply mutatis mutandis.</i></p>



§ 948 ZPO	§ 948 ZPO
Ersuchen um Einholung von Kontoinformationen	Request to obtain account information
<p>(1) Zuständige Auskunftsbehörde gemäß Artikel 14 der Verordnung (EU) Nr. 655/2014 für die Einholung von Kontoinformationen ist das Bundesamt für Justiz.</p> <p>(2) Zum Zweck der Einholung von Kontoinformationen nach Artikel 14 der Verordnung (EU) Nr. 655/2014 darf das Bundesamt für Justiz das Bundeszentralamt für Steuern ersuchen, bei den Kreditinstituten die in § 93b Absatz 1 der Abgabenordnung bezeichneten Daten abzurufen (§ 93 Absatz 8 der Abgabenordnung).</p> <p>(3) Das Bundesamt für Justiz protokolliert die eingehenden Ersuchen um Einholung von Kontoinformationen gemäß Artikel 14 der Verordnung (EU) Nr. 655/2014. Zu protokollieren sind ebenfalls die Bezeichnung der ersuchenden Stelle eines anderen Mitgliedstaates der Europäischen Union, der Abruf der in § 93b Absatz 1 der Abgabenordnung bezeichneten Daten und der Zeitpunkt des Eingangs dieser Daten sowie die Weiterleitung der eingegangenen Daten an die ersuchende Stelle. Das</p>	<p><i>(1) The competent authority pursuant to Article 14 of Council Regulation (EU) No 655/2014 for obtaining account information is the Federal Office of Justice.</i></p> <p><i>(2) For the purpose of obtaining account information pursuant to Article 14 of Council Regulation (EU) No 655/2014 the Federal Office of Justice may request the Federal Central Tax Office to retrieve data designated in section 93b (1) of the Fiscal Code of Germany from the credit institutions (section 93 (8) of the Fiscal Code of Germany).</i></p> <p><i>(3) The Federal Office of Justice shall record all incoming requests to obtain account information pursuant to Article 14 of Council Regulation (EU) No 655/2014. The designation of the requesting body of another Member State of the European Union, the retrieval of the data designated in section 93b (1) of the Fiscal Code of Germany and the time of receipt of this data as well as the forwarding of the received data to the requesting body shall also be recorded. The Federal Office of Justice shall delete the content of the obtained account information without undue delay following its transmission to the requesting body; the deletion is to be recorded.</i></p>



Bundesamt für Justiz löscht den Inhalt der eingeholten Kontoinformationen unverzüglich nach deren Übermittlung an die ersuchende Stelle; die Löschung ist zu protokollieren.	
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§ 949 ZPO	§ 949 ZPO
Nicht rechtzeitige Einleitung des Hauptsacheverfahrens	Late initiation of the main action
<p>(1) Ein im Inland erlassener Beschluss zur vorläufigen Kontenpfändung wird nach Artikel 10 Absatz 2 Unterabsatz 1 der Verordnung (EU) Nr. 655/2014 durch Beschluss widerrufen.</p> <p>(2) Zuständige Stelle, an die gemäß Artikel 10 Absatz 2 Unterabsatz 3 der Verordnung (EU) Nr. 655/2014 das Widerrufsformblatt zu übermitteln ist, ist das Amtsgericht, in dessen Bezirk das Vollstreckungsverfahren stattfinden soll oder stattgefunden hat. Ist ein in einem anderen Mitgliedstaat der Europäischen Union erlassener Beschluss zur vorläufigen Kontenpfändung im Inland zu vollziehen, hat das Amtsgericht nach Satz 1 den Beschluss, durch den das Gericht den Beschluss zur vorläufigen Kontenpfändung widerrufen hat, der Bank im Sinne des</p>	<p><i>(1) A court order for preliminary attachment issued in Germany shall be withdrawn by court order pursuant to Article 10 (2) subparagraph 1 of Council Regulation (EU) No 655/2014.</i></p> <p><i>(2) The competent body to which the withdrawal form is to be submitted pursuant to Article 10 (2) subparagraph 3 of Council Regulation (EU) No 655/2014 is the local court in the district of which the enforcement proceedings are to take place or have already taken place. Where a court order for preliminary attachment issued in another Member State of the European Union is to be enforced in Germany, the local court shall, in accordance with the first sentence, serve the court order by which the court withdrew the court order for preliminary attachment to the bank in the sense of Article 4 No 2 of Council Regulation (EU) No 655/2014.</i></p>



Artikels 4 Nummer 2 der Verordnung (EU) Nr. 655/2014 zuzustellen.	
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Titel 2 Vollziehung des Beschlusses zur vorläufigen Kontenpfändung	Title 2 Enforcement of the court order for preliminary attachment
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§ 950 ZPO	§ 950 ZPO
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Anwendbare Vorschriften	Applicable regulations
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Auf die Vollziehung des Beschlusses zur vorläufigen Kontenpfändung sind die Vorschriften des Achten Buchs über die Zwangsvollstreckung sowie § 930 Absatz 1 Satz 2 entsprechend anzuwenden, soweit die Verordnung (EU) Nr. 655/2014 und die §§ 951 bis 957 keine abweichenden Vorschriften enthalten.	<i>The rules of the eighth book regarding compulsory enforcement as well as section 930 (1), second sentence, shall apply mutatis mutandis to the enforcement of the court order for preliminary attachment unless otherwise provided for by Council Regulation (EU) No 655/2014 and sections 951 to 957.</i>
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§ 951 ZPO	§ 951 ZPO
Vollziehung von im Inland erlassenen Beschlüssen	Enforcement of court orders issued in Germany
<p>(1) Ist ein im Inland erlassener Beschluss zur vorläufigen Kontenpfändung im Inland zu vollziehen, hat der Gläubiger, der seinen Wohnsitz in einem anderen Mitgliedstaat der Europäischen Union hat, den Beschluss der Bank zustellen zu lassen. Ist der Beschluss in einem anderen Mitgliedstaat der Europäischen Union zu vollziehen, hat der Gläubiger die Zustellung gemäß Artikel 23 Absatz 3 Unterabsatz 1 der Verordnung (EU) Nr. 655/2014 an die Bank zu veranlassen.</p> <p>(2) Das Gericht, das den Beschluss erlassen hat, lässt dem Schuldner den Beschluss nach Artikel 28 der Verordnung (EU) Nr. 655/2014 zustellen; diese Zustellung gilt als Zustellung auf Betreiben des Gläubigers (§ 191). Eine Übersetzung oder Transliteration, die nach Artikel 28 Absatz 5 in Verbindung mit Artikel 49 Absatz 1 der Verordnung (EU) Nr. 655/2014 erforderlich ist, hat der Gläubiger bereitzustellen.</p>	<p><i>(1) Where a court order for preliminary attachment issued in Germany is to be enforced in Germany, the creditor who has his place of residence in another Member State of the European Union shall have the court order served on the bank. Where the court order is to be enforced in another Member State of the European Union, the creditor shall arrange service on the bank in accordance with Article 23 (3) subparagraph 1 of Council Regulation (EU) No 655/2014.</i></p> <p><i>(2) The court that has issued the court order shall have the court order served on the debtor pursuant to Article 28 of Council Regulation (EU) No 655/2014; this service shall be deemed as service at the instigation of the creditor (section 191). A translation or transliteration that is required pursuant to Article 28 (5) in conjunction with Article 49 (1) of Council Regulation (EU) No 655/2014 shall be provided by the creditor.</i></p>





§ 952 ZPO	§ 952 ZPO
Vollziehung von in einem anderen Mitgliedsstaat erlassenen Beschlüssen	Enforcement of court orders issued in another Member State
<p>(1) Zuständige Stelle ist</p> <p>1. in den in Artikel 23 Absatz 3, 5 und 6, Artikel 25 Absatz 3 und Artikel 27 Absatz 2 der Verordnung (EU) Nr. 655/2014 bezeichneten Fällen das Amtsgericht, in dessen Bezirk das Vollstreckungsverfahren stattfinden soll oder stattgefunden hat,</p> <p>2. in den in Artikel 28 Absatz 3 der Verordnung (EU) Nr. 655/2014 bezeichneten Fällen das Amtsgericht, in dessen Bezirk der Schuldner seinen Wohnsitz hat.</p> <p>(2) Das nach Absatz 1 Nummer 1 zuständige Amtsgericht hat</p> <p>1. in den in Artikel 23 Absatz 3 der Verordnung (EU) Nr. 655/2014 bezeichneten Fällen der Bank den Beschluss zur vorläufigen Kontenpfändung zuzustellen,</p> <p>2. in den in Artikel 27 Absatz 2 der Verordnung (EU) Nr. 655/2014 bezeichneten Fällen der Bank die</p>	<p>(1) <i>The competent body shall be</i></p> <p>1. <i>in the cases designated in Article 23 (3), (5) and (6), Article 25 (3) and Article 27 (2) of Council Regulation (EU) No 655/2014 the local court in the district of which the enforcement proceedings are to take place or have already taken place,</i></p> <p>2. <i>in the cases designated in Article 28 (3) of Council Regulation (EU) No 655/2014 the local court in the district of which the debtor has his place of residence.</i></p> <p>(2) <i>The local court competent pursuant to subsection (1) No 1 shall</i></p> <p>1. <i>in the cases designated in Article 23 (3) of Council Regulation (EU) No 655/2014 serve the court order for preliminary attachment on the bank,</i></p> <p>2. <i>in the cases of Article 27 (2) of Council Regulation (EU) No 655/2014 serve the creditor's release statement to the bank.</i></p>



Freigabeerklärung des Gläubigers zuzustellen.	
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Titel 3 Rechtsbehelfe	Title 3 Legal remedies
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§ 953 ZPO	§ 953 ZPO
Rechtsbehelfe des Gläubigers	Legal remedies of the creditor
<p>(1) Gegen die Ablehnung des Antrags auf Erlass eines Beschlusses zur vorläufigen Kontenpfändung und gegen den Widerruf des Beschlusses zur vorläufigen Kontenpfändung (§ 949 Absatz 1), soweit sie durch das Gericht des ersten Rechtszuges erfolgt sind, findet die sofortige Beschwerde statt.</p> <p>(2) Die in Artikel 21 Absatz 2 Satz 1 der Verordnung (EU) Nr. 655/2014 bezeichnete Frist von 30 Tagen für die Einlegung des Rechtsbehelfs beginnt mit der Zustellung der Entscheidung an den Gläubiger. Dies gilt auch in den Fällen des § 321a Absatz 2 für die Ablehnung des</p>	<p><i>(1) A complaint subject to a time limit may be filed against the rejection of the application for issuance of a court order for preliminary attachment and against the withdrawal of the court order for preliminary attachment (section 949 (1)), insofar as they were made by the court of first instance.</i></p> <p><i>(2) The period of 30 days for lodging legal remedies designated in Article 21 (2), first sentence, of Council Regulation (EU) No 655/2014 shall begin upon the decision having been served on the creditor. The same shall apply to the rejection of the application for issuance of the court order by the court of appeal in the cases of section 321a (2).</i></p>



<p>Antrags auf Erlass des Beschlusses durch das Berufungsgericht.</p> <p>(3) Die sofortige Beschwerde gegen den Widerruf des Beschlusses zur vorläufigen Kontenpfändung ist innerhalb einer Notfrist von einem Monat ab Zustellung einzulegen.</p>	<p><i>(3) The complaint subject to a time limit against the withdrawal of the court order for preliminary attachment is to be filed within a statutory period of one (1) month from the date of service.</i></p>
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<p>§ 954 ZPO</p>	<p>§ 954 ZPO</p>
<p>Rechtsbehelfe nach den Artikeln 33 bis 35 der Verordnung (EU) Nr. 655/2014</p>	<p>Legal remedies pursuant to Article 33 to 35 of Council Regulation (EU) No 655/2014</p>
<p>(1) Über den Rechtsbehelf des Schuldners gegen einen im Inland erlassenen Beschluss zur vorläufigen Kontenpfändung nach Artikel 33 Absatz 1 der Verordnung (EU) Nr. 655/2014 (Widerspruch) entscheidet das Gericht, das den Beschluss erlassen hat. Die Entscheidung ergeht durch Beschluss. Die Sätze 1 und 2 gelten entsprechend für den Widerspruch des Schuldners gemäß Artikel 33 Absatz 2 der Verordnung (EU) Nr. 655/2014 gegen die Entscheidung nach Artikel 12 der Verordnung (EU) Nr. 655/2014.</p>	<p><i>(1) That court that issued the court order shall decide on the legal remedies of the debtor against a court order for preliminary attachment issued in Germany pursuant to Article 33 (1) of Council Regulation (EU) No 655/2014 (opposition). The decision shall be delivered by court order. The first and second sentence shall apply mutatis mutandis to the opposition of the debtor pursuant to Article 33 (2) of Council Regulation (EU) No 655/2014 against the decision pursuant to Article 12 of Council Regulation (EU) No 655/2014.</i></p> <p><i>(2) The execution court (section 764 (2)) shall decide on the legal remedies of the debtor on the</i></p>



<p>(2) Über den Rechtsbehelf des Schuldners wegen Einwendungen gegen die Vollziehung eines Beschlusses zur vorläufigen Kontenpfändung im Inland nach Artikel 34 der Verordnung (EU) Nr. 655/2014 entscheidet das Vollstreckungsgericht (§ 764 Absatz 2). Für den Antrag nach Artikel 34 Absatz 1 Buchstabe a der Verordnung (EU) Nr. 655/2014 gelten § 850k Absatz 4 und § 850l entsprechend.</p> <p>(3) Über Rechtsbehelfe, die nach Artikel 35 Absatz 3 und 4 der Verordnung (EU) Nr. 655/2014 im Vollstreckungsmitgliedstaat eingelegt werden, entscheidet ebenfalls das Vollstreckungsgericht. Sofern nach Artikel 35 der Verordnung (EU) Nr. 655/2014 das Gericht zuständig ist, das den Beschluss zur vorläufigen Kontenpfändung erlassen hat, ergeht die Entscheidung durch Beschluss.</p> <p>(4) Zuständige Stelle ist in den Fällen des Artikels 36 Absatz 5 Unterabsatz 2 der Verordnung (EU) Nr. 655/2014 das Amtsgericht, in dessen Bezirk das Vollstreckungsverfahren stattfinden soll oder stattgefunden hat. Dieses hat den Beschluss der Bank zuzustellen.</p>	<p><i>grounds of the enforcement of a court order for preliminary enforcement in Germany pursuant to Article 34 of Council Regulation (EU) No 655/2014. Sections 850k (4) and 850l shall apply mutatis mutandis to the application pursuant to Article 34 (1) lit. a of Council Regulation (EU) No 655/2014.</i></p> <p><i>(3) The execution court shall also decide on legal remedies that are lodged in the Member State of enforcement pursuant to Article 35 (3) and (4) of Council Regulation (EU) No 655/2014. Provided that the court that issued the court order for preliminary enforcement is competent pursuant to Article 35 of Council Regulation (EU) No 655/2014, the decision shall be delivered by court order.</i></p> <p><i>(4) In the cases of Article 36 (5) subparagraph 2 of Council Regulation (EU) No 655/2014 that local court in the district of which the enforcement proceedings are to take place or have already taken place shall be competent. It shall serve the order on the bank.</i></p>
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§ 955 ZPO	§ 955 ZPO
Sicherheitsleistung nach Artikel 38 der Verordnung (EU) Nr. 655/2014	Provision of security pursuant to Article 38 of Council Regulation (EU) No 655/2014
Für die Entscheidung über Anträge des Schuldners auf Beendigung der Vollstreckung wegen erbrachter Sicherheitsleistung nach Artikel 38 Absatz 1 Buchstabe b der Verordnung (EU) Nr. 655/2014 ist das Vollstreckungsgericht zuständig. Die Entscheidung nach Artikel 38 Absatz 1 der Verordnung (EU) Nr. 655/2014 ergeht durch Beschluss.	<i>The execution court shall be competent for the decision on applications of the debtor for termination of enforcement on account of the provision of security pursuant to Article 38 (1) lit. b of Council Regulation (EU) No 655/2014. The decision pursuant to Article 38 (1) of Council Regulation (EU) No 655/2014 shall be delivered by court order.</i>



§ 956 ZPO	§ 956 ZPO
Rechtsmittel gegen die Entscheidungen nach § 954 Absatz 1 bis 3 und § 955	Legal remedies against the decisions pursuant to section 954 (1) to (3) and section 955
<p>(1) Gegen die Entscheidungen des Vollstreckungsgerichts nach § 954 Absatz 2 und 3 Satz 1 sowie nach § 955 Satz 1 findet die sofortige Beschwerde statt. Dies gilt auch für Entscheidungen des Gerichts des ersten Rechtszugs in den Fällen des § 954 Absatz 1 und 3 Satz 2 sowie des § 955 Satz 2.</p> <p>(2) Die sofortige Beschwerde ist innerhalb einer Notfrist von einem Monat ab Zustellung der Entscheidung einzulegen.</p>	<p><i>(1) A complaint subject to a time limit may be filed against the decisions of the execution court pursuant to section 954 (2) and (3), first sentence, as well as section 955, first sentence. This shall also apply to decisions of the court of first instance in the cases of section 954 (1) and (3), second sentence, as well as section 955, second sentence.</i></p> <p><i>(2) The complaint subject to a time limit is to be filed within a statutory period of one (1) month upon the decision having been served.</i></p>



§ 957 ZPO	§ 957 ZPO
Ausschluss der Rechtsbeschwerde	Inadmissibility of the complaint on points of law
In Verfahren zur grenzüberschreitenden vorläufigen Kontenpfändung nach der Verordnung (EU) Nr. 655/2014 findet die Rechtsbeschwerde nicht statt.	<i>A complaint on points of law may not be filed in proceedings for cross-border preliminary attachment pursuant to Council Regulation (EU) No 655/2014.</i>

Titel 4 Schadensersatz; Verordnungsermächtigung	Title 4 Compensation for damages; authorisation to issue statutory instruments
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§ 958 ZPO	§ 958 ZPO
Schadensersatz	Compensation for damages
Erweist sich die Anordnung eines Beschlusses zur vorläufigen Kontenpfändung, der im Inland vollzogen	<i>Should the order of a court for preliminary attachment that has been enforced in Germany prove to have been unfounded from the start, the</i>



<p>worden ist, als von Anfang an ungerechtfertigt, so ist der Gläubiger verpflichtet, dem Schuldner den Schaden zu ersetzen, der ihm aus der Vollziehung des Beschlusses oder dadurch entsteht, dass er Sicherheit leistet, um die Freigabe der vorläufig gepfändeten Gelder oder die Beendigung der Vollstreckung zu erwirken. Im Übrigen richtet sich die Haftung des Gläubigers gegenüber dem Schuldner nach Artikel 13 Absatz 1 und 2 der Verordnung (EU) Nr. 655/2014.</p>	<p><i>creditor is under obligation to compensate the debtor for the damages that he has suffered as a result of the court order having been enforced or as a result of the debtor having provided security in order to obtain the release of the preliminarily attached funds or the termination of the enforcement. In all other regards, the creditor's liability towards the debtor shall be governed by Article 13 (1) and (2) of Council Regulation (EU) No 655/2014.</i></p>
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<p>§ 959 ZPO</p>	<p>§ 959 ZPO</p>
<p>Verordnungsermächtigung</p>	<p>Authorisation to issue statutory instruments</p>
<p>(1) Die Landesregierungen können die Aufgaben nach Artikel 10 Absatz 2, Artikel 23 Absatz 3, 5 und 6, Artikel 25 Absatz 3, Artikel 27 Absatz 2, Artikel 28 Absatz 3 sowie Artikel 36 Absatz 5 Unterabsatz 2 und 3 der Verordnung (EU) Nr. 655/2014 einem Amtsgericht für die Bezirke mehrerer Amtsgerichte durch Rechtsverordnung zuweisen.</p> <p>(2) Die Landesregierungen können die Ermächtigung nach Absatz 1 durch</p>	<p><i>(1) The Land governments may assign the tasks pursuant to Article 10 (2), Article 23 (3), (5) and (6), Article 25 (3), Article 27 (2), Article 28 (3) as well as Article 36 (5) subparagraph 2 and 3 of Council Regulation (EU) No 655/2014 to one local court acting for the districts of several local courts, doing so by statutory instrument.</i></p> <p><i>(2) The Land governments may confer the authorisation pursuant to subsection (1) by</i></p>





Rechtsverordnung einer obersten Landesbehörde übertragen.	<i>statutory instrument upon a supreme Land authority.</i>
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