99072004130002

Enforcing maintenance claims of a child living abroad in Germany in court

Modul	Sachverhalt
Leistungsschlüssel	99072004130002
Leistungsbezeichnung I	Enforcing maintenance claims of a child living abroad in Germany in court
Leistungsbezeichnung II	Enforcing maintenance claims of a child living abroad in Germany in court
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Brandenburg
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	fachlich freigegeben (silber)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Kindesunterhalt (072)
Verrichtungskennung	Durchsetzung (130)

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SDG-Informationsbereich	Geburt, Sorgerecht für Minderjährige, elterliche Pflichten, Vorschriften für Leihmutterschaft und Adoption, einschließlich Stiefkindadoption, Unterhaltspflichten für Kinder bei grenzüberschreitenden familiären Gegebenheiten
Lagen Portalverbund	Trennung mit Kind (1020500)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	09.10.2020
Fachlich freigegen durch	Senator for Justice and Constitution of the Free Hanseatic City of Bremen
Handlungsgrundlage	https://www.gesetze-im-internet.de/aug_2011/ https://www.gesetze-im-internet.de/aug_2011/__14.html https://www.bundesjustizamt.de/DE/Themen/Buergerdienste/AU/HUUE2007/HUUE2007/HUUE2007_node.html https://www.bundesjustizamt.de/DE/Themen/Buergerdienste/AU/EU/Verordnung/Verordnung_node.html https://www.bundesjustizamt.de/DE/Themen/Buergerdienste/AU/UN/UN_Uebereinkommen/UNUebereinkommen_node.html https://www.gesetze-im-internet.de/bgb/__1601.html https://www.gesetze-im-internet.de/famfg/__58.html
Teaser	If the other parent liable for maintenance lives in Germany and you want to claim maintenance for your child living abroad, you can have this claim enforced in court.
Volltext	As the parent entitled to represent your child, you may submit a request for maintenance to the Federal Office of Justicevia the Central Authority of the Contracting State in which you and your child reside, via the Central Authority responsible for you in your State ofresidence. If the request is complete, the Federal Office of Justice will take all appropriate steps to enforce the maintenance claim. Pursuant to Article 5(5) AUG, when a request is received, the Federal Office of Justice is deemed to be authorised to take extrajudicial or judicial action on behalf of the creditor.

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	This essentially involves checking the whereabouts of the person liable for maintenance and his or her economic capacity. Depending on the circumstances of the case, a foreign title is declared enforceable in Germany or a maintenance order is obtained for the first time. If paternity has not yet been established, paternity proceedings are carried out beforehand. As far as possible, efforts will be made to obtain voluntary payment of maintenance. If payments are not made, enforcement proceedings will be initiated. There are international conventions designed to simplify international maintenance matters. Which convention applies depends on the country in which you and your child are habitually resident.
Erforderliche Unterlagen	• Identity card of the applicant • Birth certificate of the child • All documents from which the maintenance obligation of the capable person results
Voraussetzungen	• The parent claiming child maintenance is abroad. • The application for child maintenance may be made by the parent who has parental authority. • The application can also be made before the child is born. • The child must be a minor.
Kosten	The foreign Central Authorities and the Federal Office of Justice generally work free of charge for the applicants. On the other hand, thepossible commissioning of a lawyer or other associations is associated with costs which are to be borne by the applicants. However, if the applicant loses the case, the costs incurred by the opposing lawyer must be reimbursed (section 20 AUG in conjunction with section 123 ZPO). Costs may be incurred for the translation of documents, but no costs are incurred vis-à-vis state authorities.
Verfahrensablauf	The Central Authority of the requesting State will assist you in ensuring that the application includes all the

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	documents and particulars which, to the knowledge of that authority, are necessary for its examination.
	• The Central Authority will then transmit the application documents, together with any necessary translations, to the Central Authority in Germany, the Federal Office of Justice. • If the request is complete, the Federal Office of Justice shall take all appropriate steps to enforce the maintenance claim. • In accordance with Article 5(5) AUG, the Federal Office of Justice is deemed to be authorised to take extrajudicial or judicial action on behalf of the creditor when it receives a request. • This essentially involves checking the whereabouts of the person liable for maintenance and his or her economic capacity. • Depending on the circumstances of the case, a foreign title is declared enforceable in Germany or a maintenance order is obtained for the first time. • If paternity has not yet been established, paternity proceedings are carried out beforehand. • As far as possible, efforts will be made to obtain voluntary payment of maintenance. • If payments are not made, enforcement proceedings will be instituted. • Depending on the international agreement, German courts may grant free legal aid for all applications made by an entitled person in respect of maintenance obligations arising from a parent-child relationship towards a person who has not yet reached the age of 21.
Bearbeitungsdauer	The question about the processing time can only be answered in general terms. It depends on the course of proceedings in the respective countries, including any court proceedings that may be required. There is no uniformity here; in addition, special features may arise in individual cases. A longer processing time is to be expected above all if the German authority has to carry out all the investigations into the residence and then court proceedings to determine the amount of maintenance. Applicants can contribute to speedy processing by submitting complete application documents. Nevertheless, the processing time remains

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	case-specific and also depends on the cooperation of the person liable to pay maintenance.
Frist	The child must still be a minor.
weiterführende Informationen	https://www.bundesjustizamt.de/auslandsunterhalt https://www.hcch.net https://e-justice.europa.eu
Hinweise	
Rechtsbehelf	Complaint pursuant to §§ 58 et seq. FamFG against the family court decision within one month
Kurztext	• Maintenance claims from abroad Enforcement in court proceedings • Child in need of maintenance lives abroad • Parent liable to pay maintenance lives in Germany • The Federal Office of Justice to which the request for maintenance is forwarded shall, if the request is complete, take all appropriate steps to enforce the maintenance claim. • The Federal Office of Justice is deemed to be authorised to take extrajudicial or judicial action on behalf of the person entitled to maintenance. • Jurisdiction: Applications must be submitted to the Federal Office of Justice in Germany via the Central Authority of the Contracting State in which the applicant and the child are resident.
Ansprechpunkt	Central authority of the requesting state
Zuständige Stelle	• Central authority of the requesting state • Federal Office of Justice as the central authority of the requested state Germany • An application for a foreign maintenance claim is decided by the local court at the seat of the higher regional court in whose jurisdiction the person against whom the title is directed usually resides • Local court - family court
Formulare	yes
Ursprungsportal	Enforcing maintenance claims of a child living abroad in Germany in court, Unterhaltsansprüche eines im Ausland lebenden Kindes in Deutschland gerichtlich durchsetzen