

**Act on the implementation of Council Regulation (EC) No. 4/2009 and amending existing enforcement regulations in international maintenance rights**

23 May 2011

Bundestag has adopted the following Act:

**Article 1**  
**Act on the Recovery of Maintenance in Relations with Foreign States**  
**(Foreign Maintenance Act — AUG)**

**Table of Contents**

**Chapter 1**  
**General Part**

Division 1  
Scope of application;  
Definitions of terms

1. Scope of application
2. Basic rules of legal proceedings
3. Definitions

Division 2  
Central Authority

4. Central Authority
5. Functions and powers of the Central Authority
6. Support from orphans' courts

Division 3  
Applications for assistance in maintenance matters

Subdivision 1  
Outgoing Applications

- § 7 Prior examination by the Local Court, concentration of jurisdiction
- § 8 Content and form of the application
- § 9 Extent of the prior examination
- § 10 Translation of the application
- § 11 Forwarding of the application by the Central Authority
- § 12 Registration of an existing title abroad

Subdivision 2

Incoming Applications

- § 13 Translation of the application
- § 14 Content and form of the application
- § 15 Treatment of a provisional decision

Division 4

Collection of data by the Central Authority

- § 16 Right of the Central Authority to procure information in order to obtain or amend a title
- § 17 Right of the Central Authority to procure information in order to recognize, declare enforceability of, or enforce a title
- § 18 Notice on procuring information
- § 19 Transfer and deletion of information

Division 5

Legal aid

- § 20 Requirements for granting legal aid
- § 21 Jurisdiction of applications for legal aid under Council Regulation (EC) No. 2003/8/EC
- § 22 Legal aid under Council Regulation (EC) No. 4/2009
- § 23 Legal aid for re recognition and declaring of enforceability of decisions, and enforcing titles relating to maintenance obligations
- § 24 Legal aid for proceedings with formal reciprocity

Division 6

Additional jurisdiction provisions; concentration of jurisdiction

- § 25 International jurisdiction under Council Regulation (EC) No. 4/2009
- § 26 Local jurisdiction
- § 27 Local jurisdiction and additional and extraordinary jurisdiction
- § 28 Concentration of jurisdiction; regulatory powers
- § 29 Jurisdiction within the scope of application of the Regulation (EC) No. 1896/2006

**Chapter 2**

**Recognition and enforcement of judgements**

Division 1

Proceedings without the procedure of exequatur under the Council Regulation (EC) No. 4/2009

- § 30 Abolition of the enforcement order, titles
- § 31 Applications for the refusal, stay, or limitation of enforcement under Article 21 of the Council Regulation (EC) No. 4/2009
- § 32 Stay of compulsory enforcement
- § 33 Temporal stay for renewal, review, and appeal
- § 34 Ascertaining enforceability of a foreign title

Division 2

Court jurisdiction in proceedings on recognition and declaring of enforceability of foreign decisions

- § 35 Court jurisdiction; concentration of jurisdiction; authorisation to issue statutory instruments

Division 3

Proceedings with the procedure of exequatur under the Council Regulation (EC) No. 4/2009 and agreement with the European Union

Subdivision 1

Granting the compulsory enforceability of foreign titles

- § 36 Submission of application

- § 37 Addressee
- § 38 Proceedings
- § 39 Enforcement of foreign title in special cases
- § 40 Decision
- § 41 Enforcement order
- § 42 Communication of the decision

Subdivision 2  
Complaints, appeals

- § 43 Court of Appeal, submission of appeal, period of appeal
- § 44 Objections against the action to be enforced by the appeal
- § 45 Procedure and decision on appeal
- § 46 Right to assistance and term of cassation
- § 47 Submitting and justification of cassation
- § 48 Procedure and decision on cassation

Subdivision 3

Limiting compulsory enforcement with provisions of security measures and unlimited compulsory enforcement

- § 49 Verifying limitation
- § 50 Security of the person liable to pay
- § 51 Auction of movable property
- § 52 Unlimited compulsory enforcement, special legal acts
- § 53 Unlimited compulsory enforcement ordered by the Local Court
- § 54 Unlimited compulsory enforcement ordered by the Court of Appeal

Subdivision 4

Recognition and enforcement of maintenance titles according to international treaties

- § 55 Proceedings
- § 56 Decision on legal expenses

Division 4

Recognition and enforcement of decisions under international treaties

Subdivision 1

General part

- § 57 Application of provisions
- § 58 Hearing
- § 59 Term of appeal
- § 60 Legal restrictions to compulsory enforcement

Subdivision 2

Recognition and enforcement of maintenance titles under the Hague Convention of 2 October 1973 on the  
Recognition and Enforcement of Decisions relating to Maintenance Obligations

- § 61 Restrictions to recognition and enforcement
- § 62 Proceedings for appeals falling under the scope of the Hague Convention

Subdivision 3

Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgements in Civil and  
Commercial Matters

§ 63 Special provisions regarding appellation

Division 5

Proceedings with formal reciprocity

§ 64 Enforceability of foreign titles

**Chapter 3**

**Enforcement, application for rejection of enforcement, special proceedings, reimbursement of  
damages**

Division 1

Enforcement, application for rejection of enforcement, special proceedings

§ 65 Enforcement

§ 66 Application for rejection of enforcement

§ 67 Proceedings after rejecting and enforceable foreign title or amending it in the state of origin

§ 68 Cancelling or amending of foreign titles enforcement of which has been granted

Division 2

Reimbursement of damages due to ungrounded enforcement

§ 69 Reimbursement of damages due to ungrounded enforcement

**Chapter 4**

**German court decisions; procedure of reminding**

§ 70 Application of the person liable to pay, under Article 19 of the Council Regulation (EC) No. 4/2009

§ 71 Certifying domestic titles

§ 72 Decoding of compulsory enforcement of dynamic maintenance obligations title in abroad

§ 73 Completion of domestic decisions on enforcement in abroad

§ 74 Enforcement order for enforcement in abroad

§ 75 Proceedings for payment orders for addressees in abroad

**Chapter 5**

**Costs, transitional provisions**

Division 1

Costs

§ 76 Translations

Division 2

Transitional provisions

§ 77 Transitional provisions

## **Chapter 1 General Part**

### **Division 1 Scope of application; Definitions of terms**

#### **Section 1 Scope of application**

- (1) This Act shall serve
1. to implement the following Regulation and the following instruments of the European Union:
    - a) Regulation (EC) No. 4/2009 of the Council of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7 of 10.1.2009, pp. 1);
    - b) the Agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 299 of 16.11.2005, pp. 62), so far as this Agreement is to be applied to maintenance matters;
    - c) the Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 339 of 21.12.2007, pp. 3), so far as this Convention is to be applied to maintenance matters;
  2. to implement the following international treaties:
    - a) the Hague Convention of 2 October 1973 on the recognition and enforcement of decisions relating to maintenance obligations; (Federal Law Gazette 1986 II pp. 826);
    - b) the Convention of 16 September 1988 on jurisdiction and the enforcement of judgements in civil and commercial matters (Federal Law Gazette 1994 II pp. 2658), so far as this Convention is to be applied to maintenance matters;
    - c) the New York UN Convention of 20 June 1956 on the recovery abroad of maintenance (Federal Law Gazette 1959 II pp. 150);
  3. the recovery of statutory maintenance claims, where one of the parties has his or her habitual residence within the scope of application of this Act and the other party has his or her habitual residence in another State with which reciprocity is guaranteed.  
Reciprocity pursuant to the first sentence, number 3, shall be deemed to be guaranteed if the Federal Ministry of Justice has so declared and has published this in the Federal Law Gazette (formal reciprocity). States within the meaning of the first sentence, number 3, shall also include partial states and provinces of a federal state.

(2) Provisions in international treaties, so far as they have become directly applicable domestic law, shall take precedence over the provisions of this Act. The provisions of the Regulation and the instruments referred to in subsection (1), first sentence, number 1, being directly applicable law of the European Union, shall not be affected by the implementing provisions of this Act.

#### **Section 2 Basic rules for legal proceedings**

Unless otherwise provided by this Act, rules of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied.

#### **Section 3 Definitions within the meaning of this Act**

1. Member States shall be the member states of the European Union,
2. International treaties shall be multilateral and bilateral agreements for recognition and enforcement,
3. Persons entitled shall be
  - a) natural persons, entitled to receiving or demanding maintenance,
  - b) public service providers, entitled to bring a maintenance claim according to provisional rights, so far as Regulation (EC) No. 4/2009 or the applicable international treaty is to be applied to maintenance matters,
4. Persons liable to pay shall be natural persons, owing maintenance or against whom maintenance claim has been brought.
5. Titles shall be court judgements, court settlements, and public titles to which the Regulation or the specific international treaty to be implemented applies.
6. State of origin shall be the state issuing the title.
7. Exequatur process shall be the process of transferring a foreign title for enforcement in Germany.

## **Division 2 Central Authority**

### **Section 4 Central Authority**

- (1) The Central Authority for judicial and extrajudicial recovery of maintenance claims under this Act shall be the Federal Office of Justice. The Central Authority shall deal directly with all the competent agencies in Germany and abroad. Communications shall be forwarded by the Central Authority to the competent agencies without delay
- (2) The process conducted by the Central Authority shall be deemed to be a judicial administration proceeding.
- (3) The Federal Ministry of Justice shall be authorised, in accordance with Article 51 paragraph 3 of Regulation (EC) No. 4/2009, to transfer functions of the Central Authority to another public body or to designate a legal person under private law with the corresponding functions. The designated person must be able to provide evidence of basic experience in the enforcement of maintenance claims abroad. The Federal Ministry of Justice shall determine the extent of transfer of functions. Notice of such transfer shall be given by the Federal Ministry of Justice in the Federal Gazette. The designated person shall be subject to the specialist supervision of the Federal Ministry of Justice. Section 5 subsection (5) and Sections 7 and 9 shall not be applied to the activity of designated persons.

### **Section 5 Functions and powers of the Central Authority**

- (1) The judicial and extrajudicial recovery of maintenance claims under this Act shall be effected through the Central Authority as the receiving and transmitting authority.
- (2) The Central Authority shall take all appropriate steps in order to enforce the maintenance claim of the person entitled. Here the Central Authority has to comply with the wishes and the interests of the person entitled.
- (3) In the scope of application of Regulation (EC) No. 4/2009, the functions of the Central Authority shall be governed by Articles 50, 51, 53 and 58 of this Regulation.
- (4) In respect of incoming requests, the Central Authority, acting either by itself or by means of sub-authorisation through representatives, shall be deemed to be authorised to take extrajudicial action or to initiate court action on behalf of the applicant. In particular, the Central Authority shall have the authority to deal with the maintenance claim by way of settlement or of recognition of the claim. Where necessary, the Central Authority shall be entitled also to make a maintenance application and to pursue the enforcement of a maintenance title.

(5) The Central Authority shall transmit, in conformity with the provisions governing federal budget funds, to the person entitled to maintenance the maintenance sums recovered from the person liable to pay. The first sentence shall apply to the return of amounts paid in excess or mutatis mutandis to other payments necessitated by the exercise of Central Authority functions.

## **Section 6**

### **Support from orphans' courts**

In case the Central Authority recovers maintenance for minors and young adults until age 21, it may ask for support from orphans' courts.

## **Division 3**

### **Applications for assistance in maintenance matters**

#### **Subdivision 1**

#### Outgoing applications

### **Section 7**

#### **Prior examination by the Local Court; concentration of jurisdiction**

- (1) The receipt and examination of an application for assistance in maintenance matters shall be effected by the Local Court with jurisdiction over the seat of the Higher Regional Court in whose district the applicant has his habitual residence. For the district of the Berlin Higher Regional Court the decision shall lie with Pankow-Weißensee Local Court.
- (2) The prior examination shall be deemed to be a judicial administration proceeding.
- (3) No costs shall be imposed for the prior examination.

### **Section 8**

#### **Content and form of the application**

- (1) The content of an application addressed to another Member State, except for the Kingdom of Denmark, shall be governed by Article 57 of Regulation (EC) No. 4/2009.
- (2) In the cases not covered by subsection (1) the application shall contain all the information that may be important for recovery of the claim, in particular
  1. the surname and forenames of the person entitled to maintenance; further, that person's address, date of birth, nationality, profession or occupation, and where applicable, the name and the address of that person's statutory representative,
  2. the surname and the forenames of the person liable to pay maintenance; further, insofar as the person entitled has knowledge thereof, the former person's address, date, place and country of birth, nationality, profession or occupation, and
  3. details
    - a) of the facts upon which the claim is based;
    - b) of the kind and amount of the maintenance claimed;
    - c) of the financial and family circumstances of the person entitled, so far as this information may be important for the decision;
    - d) of the financial and family circumstances of the person liable, so far as there is knowledge thereof.An application from a person entitled within the meaning of Section 3, number 3 letter b), shall contain the data referred to in numbers 1 and 3 letter c) of the person in respect of whom passage of the claim has already occurred.



(3) The appropriate civil status certificates and other relevant documents shall be attached to an application pursuant to subsection (2). The court designated in Section 7 can make all necessary investigations proprio motu.

(4) In the cases covered by subsection (2) the application shall be signed by the applicant, by his statutory representative or by an authorised representative whose power of attorney shall be attached. So far as required by the law of the State to be requested, the accuracy of the information given by the applicant or by his statutory representative shall be subject to affirmation in lieu of an oath. Particular requirements of the State to be requested as regards form and content of the request shall be complied with, unless barred by mandatory provisions under German law.

(5) In the cases covered by subsection (2) the application shall be addressed to the Receiving Agency of the State where the claim is to be recovered.

## **Section 9**

### **Extent of the prior examination**

(1) The senior judge of the Local Court or the judge designated within the allocation of judicial administrative business shall examine

1. in proceedings with formal reciprocity (Section 1 subsection (1), first sentence, number 3), whether the intended legal pursuit under German law would offer sufficient prospect of success;

2. in the other cases, whether the application is vexatious or manifestly unfounded.

If he affirms such prospect of success in the cases covered by the first sentence, number 1, he shall issue a certificate to this effect, shall arrange for the translation thereof into the language of the State to be requested and shall attach these documents to the request.

(2) If the intended legal pursuit does not offer sufficient prospect of success (subsection (1), first sentence, number 1) or if the application is vexatious or manifestly unfounded (subsection (1), first sentence, number 2), the judge shall refuse to forward the application. The decision indicating refusal shall be furnished with reasons and is to be served on the applicant together with instructions regarding his or her right to seek an appellate remedy. The decision shall be contestable pursuant to section 23 of the Introductory Act to the Courts Constitution Act.

(3) If there are no grounds for refusal, the court shall send the application together with the attached documents and submitted translations, each with three certified copies, direct to the Central Authority.

(4) In the scope of application of the New York UN Convention of 20 June 1956 on the recovery abroad of maintenance (Federal Law Gazette 1959 II pp. 150) the judge shall, in the cases covered by subsection (2), first sentence, submit the application to the Central Authority for a decision on whether to forward the application.

## **Section 10**

### **Translation of the application**

(1) Together with the application and the attached documents, the applicant shall attach translations certified by a sworn translator in the language of the State to be requested. Articles 20, 28, 40, 59 and 66 of Regulation (EC) No. 4/2009 shall remain unaffected by this. If, in the scope of application of the international treaty to be implemented in the respective case, a translation of documents is required into a language that the State to be requested has indicated it can accept, the translation shall be done by a person qualified to do translations in one of the contracting parties.

(2) If the applicant does not himself, or herself, procure the necessary translation, in spite of being called upon to do so by the Central Authority, the Central Authority shall arrange for the translation at the applicant's expense.



(3) The Local Court with jurisdiction under Section 7 subsection (1) shall, upon application, exempt the applicant from the duty to reimburse the costs of the translation arranged by the Central Authority, if the applicant fulfils the personal and financial requirements for instalment-free legal aid pursuant to section 113 of the Act on Procedure in Family Matters and in Non-Contentious Matters, read in conjunction with section 115 of the Civil Procedure Code.

(4) Section 1077 subsection (4) of the Civil Procedure shall remain unaffected.

### **Section 11**

#### **Forwarding of the application by the Central Authority**

(1) The Central Authority shall examine whether the application complies with the formal requirements of the proceedings to be instituted abroad. If these are met, the Central Authority shall forward the application to the competent foreign agency. Where required it shall attach a translation of this Act to the application.

(2) The Central Authority shall supervise the proper execution of the application.

(3) In the event that the Central Authority refuses to forward the application, Section 9, subsection (2), second and third sentences shall be applied mutatis mutandis.

### **Section 12**

#### **Registration of an existing title abroad**

Where a domestic court decision or other title within the meaning of Section 3, number 5, already exists with regard to the maintenance claim, the person entitled to maintenance may also submit a request for registration of the decision abroad to the extent that the law applicable there so provides. Sections 7 to 11 shall be applied mutatis mutandis; there shall be no examination of the legitimacy of the domestic title produced.

### **Subdivision 2**

#### **Incoming applications**

### **Section 13**

#### **Translation of the application**

(1) If a translation of documents is required, this should be drawn up in German.

(2) The accuracy of the translation is to be certified by a person qualified to do so in a State as designated below:

1. in a Member State or other Contracting Party to the Agreement on the European Economic Area;
2. in a State which is a contracting party to the international treaty to be implemented in the respective case, or
3. in a State with which reciprocity has been formally deemed to be guaranteed (Section 1, subsection (1), first sentence, number 3).

(3) The Central Authority may refuse to take action as long as communications or documents to be included have not been drawn up in German or translated into German. Within the scope of application of Regulation (EC) No. 4/2009, however, it is authorised to do so only if it may demand a translation pursuant to that Regulation.

(4) The Central Authority may, in proceedings with formal reciprocity (Section 1, subsection (1), first sentence, number 3) in relations with certain States or in individual cases, dispense with the requirement of a translation and obtain the translation itself.

### **Section 14**

#### **Content and form of the application**

(1) The content of an application from another Member State, with the exception of the Kingdom of Denmark, shall be governed by Article 57 of Regulation (EC) No. 4/2009)

(2) In cases not covered by subsection (1), the application shall contain all information that may be of significance for the recovery of the claim, in particular:

1. where a maintenance claim for which a title exists is subject to indexation, the method by which this indexation is to be calculated, and

2. where there is an obligation to pay statutory interest, the rate of statutory interest as well as the date on which the obligation to pay interest began.

Section 8, subsection (2), shall otherwise apply *mutatis mutandis*.

(3) In cases covered by subsection (2), the application shall be signed by the applicant, by his or her statutory representative or by an authorised representative with the inclusion of the power of attorney, and shall be accompanied by a statement by the foreign agency that received and examined the application. This statement shall also designate the maintenance amount required at the place of residence of the person entitled. The application and the attached documents shall be transmitted in duplicate. The appropriate civil status certificates and other relevant documents shall be attached and other supporting documents should be clearly referred to.

## **Section 15**

### **Treatment of a provisional decision**

In proceedings with formal reciprocity (Section 1, subsection (1), first sentence, number 3) a foreign decision that has been given without the person liable being heard, provisionally and subject to confirmation by the requested court, shall be deemed to be an incoming request for obtaining a maintenance title. Section 8, subsection (2) and Section 14, subsection (2), first sentence, shall apply *mutatis mutandis*.

## **Division 4**

### **Collection of data by the Central Authority**

## **Section 16**

### **Right of the Central Authority to procure information in order to obtain or amend a title**

(1) If the current place of residence of the person entitled or the person liable is not known, the Central Authority may, in order to fulfil its functions under Section 5, obtain information as to their addresses as well as their principal and secondary residences, from a competent registration authority.

(2) Where it is not possible to determine the place of residence pursuant to subsection (1), the Central Authority may obtain the following information:

1. from statutory pension insurance agencies: the current address known to them, the current or future place of residence of the person concerned;

2. from the Federal Motor Transport Authority: the vehicle keeper information pursuant to section 33, subsection (1), first sentence, number 2 of the Road Traffic Act;

3. if the person concerned is a member of foreign armed forces stationed in Germany, from the competent authority of the unit: the address of the person concerned at which documents can be served.

(3) If the Central Authority is unable to determine the place of residence of the person liable pursuant to subsections (1) and (2), it may arrange for a search notice to be entered into the Central Register.

## **Section 17**

### **Right of the Central Authority to procure information in order to recognize, declare enforceability of, or enforce a title**

(1) In case maintenance recovery has been initiated and the person liable to pay refuses complying with the request of the Central Authority to provide information on his or her income and assets, or in case it is

not possible to satisfy the claim of the person entitled by executing decision against the assets indicated by the person liable to pay, the Central Authority may employ the rights conferred to it under Section 16 regarding procuring information in order to recognize, declare enforceability of, or enforce a title. In addition, the Central Authority upon prior notice may obtain the following information:

1. from statutory pension insurance agencies: employment relations of the person concerned, surname and forenames, name of the company, and address of the current employer;
  2. from agencies administering the basic support for job seekers: state allowances, pursuant to the Second Book of the Code of Social Law — Basic support for job seekers;
  3. from Federal Central Tax Office: data from credit institutions marked under Section 93b subsection (1) of the Tax Code on the person liable to pay (Section 93, subsection (8) of the Tax Code);
  4. from Federal Motor Vehicle Authority: the vehicle keeper information pursuant to section 33, subsection (1), first sentence, number 2 of the Road Traffic Act, and information on the vehicle kept by the person liable to pay.
- (2) Central Authority may obtain information on the assets owned by the person liable to pay only where it is necessary for enforcement.

### **Section 18**

#### **Notice on procuring information**

- (1) The Central Authority shall inform the applicant only on the fact whether procuring of information pursuant to Sections 16 and 17 was successful.
- (2) The Central Authority is obliged to immediately inform the person concerned on procuring of information pursuant to Sections 16 and 17, unless informing thereof would prevent or substantially impede the enforcement of the title. Notwithstanding the first sentence, the notice shall be issued not later than 90 days after receiving the information.

### **Section 19**

#### **Transfer and deletion of information**

- (1) The Central Authority may transfer the personal information on the person concerned to other public and private organisations if it is necessary for it to comply with the Section 5. Data can be used solely for the purpose it was received for.
- (2) The Central Authority is obligated to immediately delete the information it is no longer in need of for purposes of recognition, declaring enforceability of, or enforcing a title. The deletion shall be recorded. Section 35 subsection (3) of the Federal Data Protection Act shall remain unaffected.

### **Division 5**

#### **Legal aid**

### **Section 20**

#### **Requirements for granting legal aid**

In order to grant legal aid, Section 113 subsection (1) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction in connection to Sections 114 to 127 of the Code of Civil Procedure shall be applied mutatis mutandis, unless otherwise provided by this Act.

### **Section 21**

#### **Jurisdiction of applications for legal aid under Council Directive 2003/8/EC**

- (1) Safe from the Section 1077 subsection (1) first sentence, receipt and transfer of applications on foreign legal aid by natural persons in matters relating to maintenance obligations shall be effected by the

Local Court with jurisdiction over the seat of the Higher Regional Court in whose district the applicant has his habitual residence, under Section 1076 of the Code of Civil Procedure.

(2) Section 1078 subsection (1) first sentence of the Code of Civil Procedure shall apply to incoming applications.

## **Section 22**

### **Legal aid under Article 46 of the Council Regulation (EC) No. 4/2009**

(1) For applications under Article 56 of the Council Regulation (EC) No. 4/2009, a person under age 21 shall be granted legal aid irrespective of his or her material situation, according to Article 46 of the Council Regulation (EC) No. 4/2009. By granting legal aid, such person is completely released from paying the costs referred to in the Section 122 subsection (1) of the Code of Civil Procedure. Section 3 shall remain unaffected.

(2) Granting of legal aid can be refused only where the application is vexatious or manifestly unfounded. In cases referred to by Article 56 (1) (a) and (b) of the Council Regulation (EC) No. 4/2009, the prospects of success are not examined.

(3) In case the applicant is subject to proceedings, according to Section 67 of the Council Regulation (EC) No. 4/2009 the court may ask for refunding of costs for the provided legal aid where it is justified taking into the financial situation of the applicant.

## **Section 23**

### **Legal aid for recognition and declaring of enforceability of decisions, and enforcing titles relating to maintenance obligations**

In case the applicant has received full or partial legal aid for the recognition in the state of origin, he or she shall be granted legal aid for recognition, declaring of enforceability and enforcing of the decision. By granting legal aid, such person is completely released from paying the costs referred to in the Section 122 subsection (1) of the Code of Civil Procedure. This does not apply if granting of legal aid is repealed under Section 124 subsection (1) of the Code of Civil Procedure.

## **Section 24**

### **Legal aid for proceedings with formal reciprocity**

If, in proceedings under Section 1, subsection (1), first sentence, number 3, the intended legal pursuit of incoming requests offers sufficient prospect of success and does not appear to be vexatious, the person entitled shall be granted legal aid even in the absence of express application. In this case, he or she has to pay neither monthly instalments nor amounts payable from the assets. As a result of the granting of legal aid, the person entitled shall be exempted with final effect from having to pay the costs referred to in section 122, subsection (1) of the Code of Civil Procedure, as long as the grant of legal aid is not set aside pursuant to section 124, number 1 of the Code of Civil Procedure.

## **Division 6**

### **Additional jurisdiction provisions; concentration of jurisdiction**

## **Section 25**

### **International jurisdiction under Council Regulation (EC) No. 4/2009**

#### **Article 3 (c)**

(1) According to Article 3 (c) of the Council Regulation (EC) No. 4/2009, courts in Germany have jurisdiction over maintenance obligation matters provided that:

1. maintenance obligations are set upon marriage divorce or annulment where courts in Germany have jurisdiction over marriage or civil partnership matters under the following regulations:

Federal Law Gazette on the Internet: [www.bundesgesetzblatt.de](http://www.bundesgesetzblatt.de) | Federal law publishing services

[www.bundesanzeiger-verlag.de](http://www.bundesanzeiger-verlag.de)

- a) Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No. 1347/2000 (OJ L 338, 23.12.2003, pp. 1) according Article 3(1) of this Regulation,
  - b) Section 98 subsection (1) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction, or
  - c) Section 103 subsection (1) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction;
2. maintenance obligations have come into effect within a process of determining paternity of child where courts in Germany have international jurisdiction over the process of determining paternity, under the following regulations:
- a) Section 100 subsection (1) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction, if both person entitled and person liable to pay are citizens of Germany,
  - b) Section 100 subsection (2) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction.
- (2) Subsection (1) number 1 letters b) and c) shall not be applied in cases courts in Germany have jurisdiction over one party only, based on the citizenship of Germany.

### **Section 26** **Local jurisdiction**

- (1) Local jurisdiction under Article 3(c) of the Council Regulation (EC) No. 4/2009 shall lie with the Local Court:
1. where marriage or civil partnership case was or is being heard at first instance until such marriage or civil partnership case is heard;
  2. where case of determining paternity is being heard, if maintenance is demanded in connection thereof. In cases covered by first sentence second part, in order to issue a provisional decision, Section 248 subsection (2) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied.
- (2) Section 233 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall remain unaffected.

### **Section 27** **Local jurisdiction and additional and extraordinary jurisdiction**

In case courts in Germany have international jurisdiction under Articles 6 or 7 of the Council Regulation (EC) No. 4/2009, local jurisdiction shall be held only by the Pankow-Weißensee court in Berlin.

### **Section 28** **Concentration of jurisdiction; regulatory powers**

- (1) In case the person concerned does not have his or her habitual residence within Germany, decision on applications for maintenance obligations as provided for by Article 3 (a) and (b) of the Council Regulation (EC) No. 4/2009 shall be taken by the Local Court with jurisdiction over the seat of the Higher Regional Court in whose district the applicant has his habitual residence. Pankow-Weißensee Local Court shall be competent to decide for the district of Berlin Higher Regional Court.
- (2) The governments of the Länder shall be authorised to assign this jurisdiction, by statutory instrument, to another Local Court in the Higher Regional Court district or, where there is more than one Higher Regional Court established in a Land, to a Local Court for the districts of all Higher Regional Courts or a number of Higher Regional Courts. The Land governments may transfer this authorisation by statutory instrument to the Land administrations of justice.

## **Section 29**

### **Jurisdiction within the scope of application of the Regulation (EC) No. 1896/2006**

In relation to jurisdiction of the scope of application of the Regulation (EC) No. 1896/2006 of the European Parliament and the Council creating a European order for payment procedure (OJ L 399, 30.12.2006, pp. 1), Section 1087 of the Code of Civil Procedure shall remain unaffected.

## **Chapter 2**

### **Recognition and enforcement of decisions**

#### **Division 1**

### **Proceedings without the procedure of exequatur under the Council Regulation (EC) No. 4/2009**

#### **Section 30**

##### **Abolition of the enforcement order; titles**

- (1) Provided provisions of Articles 17 and 18 of the Council Regulation (EC) No. 4/2009 are in force, the foreign enforcement title shall be enforced without the enforcement order.
- (2) The form to be submitted to the enforcing authority under Article 20(1) (b) or Article 48(3) of the Council Regulation (EC) No. 4/2009 shall be inseparable from the enforceable title.
- (3) If under Article 20(1)(d) of the Council Regulation (EC) No. 4/2009, person entitled is obligated to submit a translation or transcript, such translation shall be done by a person qualified to do translations in one of the contracting parties

#### **Section 31**

### **Applications for the refusal, stay, or limitation of enforcement under Article 21 of the Council Regulation (EC) No. 4/2009**

- (1) Applications for the refusal, stay, or limitation of enforcement under Article 21 of the Council Regulation (EC) No. 4/2009 shall lie with the Local Court jurisdiction. The local jurisdiction shall lie with the court as mentioned in the Section 764 subsection (2) of the Code of Civil Procedure.
- (2) Adjudication on application for the refusal of enforcement shall be taken with a decision (Article 21 (2) of the Council Regulation (EC) No. 4/2009). Section 770 of the Code of Civil Procedure shall be applied mutatis mutandis. Pursuant to Section 793 of the Code of Civil Procedure, decision is subject to immediate appeal. Until decision is made according to the first sentence, the court may act pursuant to Section 769 subsections (1) and (3) of the Code of Civil Procedure.
- (3) Court by issuing a provisional decision decides upon applications related to stay or limitation of enforcement (Article 21 (3) of the Council Regulation (EC) No. 4/2009). The decision shall be final.

#### **Section 32**

##### **Stay of compulsory enforcement**

Pursuant to Section 775 subsections (1) and (2), and Section 776 of the Code of Civil Procedure, compulsory enforcement shall be stayed or limited, if the person liable to pay submits decision by the court in the state of origin on lack or limitation of enforceability. Translation of such decision shall be submitted upon request. In this case decision shall be translated into German by a person entitled to do so in one of the Member States.

#### **Section 33**

##### **Temporal stay for renewal, review, and appeal**

- (1) In case the person liable to pay submits an application for renewal or review of the enforceable decision, or appeals in the state of origin, Section 707 and Section 719 subsection (1) of the Code of Civil



Procedure and Section 120 subsection (2) second and third sentences of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied.

(2) Jurisdiction shall lie with the court mentioned in the Section 35 subsection (1) of the Code of Civil Procedure.

### **Section 34**

#### **Ascertaining enforceability of a foreign title**

(1) In case the enforcing authority rejects compulsory enforcement of a foreign title not in need for enforcement order due to insufficient certainty, the person entitled may request the content of the enforceable title (concretization). Jurisdiction shall lie with the court mentioned in the Section 35 subsection (1) of the Code of Civil Procedure.

(2) Application can be submitted in writing or handed in for registering at the bureau. Court may decide upon the application without convening the court. Prior to adjudicating, the person entitled is heard with a decision of court. Reasons must be given for the decision.

(3) In case the court concretizes the foreign enforceable title, the title shall be enforced according to this decision without need of enforcement order. The decision shall be inseparable from the foreign title and transferred to the person liable to pay.

(4) According to the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction, the decision can be appealed. Section 61 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall not be applied.

### **Division 2**

#### **Court jurisdiction in proceedings on recognition and declaring of enforceability of foreign decisions**

### **Section 35**

#### **Court jurisdiction; concentration of jurisdiction; authorisation to issue statutory instruments**

(1) Solely the Local Court that is competent at the seat of the Higher Regional Court in the district of which

1. the person against whom the title is directed has his or her place of habitual residence or
2. the enforcement is to be carried out

shall be competent to decide on an application for establishment of recognition or on an application for a declaration of enforceability of a foreign title under Division 3 or 4.

Pankow-Weissensee Local Court shall be competent to decide for the district of Berlin Higher Regional Court.

(2) The governments of the Länder shall be authorised to assign this jurisdiction, by statutory instrument, to another Local Court in the Higher Regional Court district or, where there is more than one Higher Regional Court established in a Land, to a Local Court for the districts of all Higher Regional Courts or a number of Higher Regional Courts. The Land governments may transfer this authorisation by statutory instrument to the Land administrations of justice.

(3) In proceedings where the subject-matter concerns the declaration of enforceability of a notarial deed, this deed can be declared enforceable also by a notary within the scope of application of

2. Regulation (EC) No. 4/2009 or
3. the Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The provisions for proceedings of declaration of enforceability by a court shall apply analogously.

### **Division 3**



**Proceedings with the procedure of exequatur under the Council Regulation (EC) No. 4/2009 and agreement with the European Union**

**Subdivision 1  
Granting the compulsory enforceability of foreign titles**

**Section 36  
Submission of application**

- (1) A title enforceable in a foreign state is subject to compulsory enforcement by adding an application for enforcement order thereof.
- (2) Application for enforcement order may be submitted to the competent court in writing or declared orally for registering in bureau.
- (3) In case the application is not in German as demanded by the Section 184 of the Judicature Act, the court may request for the translation thereof, the translation shall be verified by a person entitled to do so in the following states:
  1. Member State or any other party to the European Economic Zone, or
  2. contracting state with whom an enforceable international treaty has been signed.
- (4) Copy of the title with an attached enforcement order, and translation thereof if applicable, shall be attached in two copies each.

**Section 37  
Addressee**

- (1) In case the applicant does not indicate the authorised person for receiving shipments in the meaning of Section 184 subsection (1) first sentence of the Code of Civil Procedure, until naming the addressee all shipments shall be delivered by mail (Section 184 subsection (1) second sentence and subsection (2) of the Code of Civil Procedure).
- (2) Subsection (1) shall not be applied if the applicant has authorised a person for proceedings and the shipment is within state.
- (3) Subsections (1) and (2) shall not be applied in proceedings under the Council Regulation (EC) No. 4/2009.

**Section 38  
Proceedings**

- (1) Decision shall be made without an oral court hearing. However, an oral discussion with the applicant or its authorised person can be organised, in case the applicant or its authorised person have agreed so and it serves for hastening the hearing.
- (2) Presence of a lawyer in the Local Court is not mandatory.

**Section 39  
Enforcement of foreign title in special cases**

- (1) In case a compulsory enforcement according to the content of the title depends on the security of the person entitled, expiration of term, or other facts, or the enforcement order has been submitted for the benefit of another person not the person entitled in the title, or another person not the person liable to pay according to the title, a question raise to what extent compulsory enforcement depends on the evidence of special provisions, or whether the title shall be enforced for or against the other according to the laws of the state where the title has been registered. Evidence shall be substantiated with documents, except for cases when the facts are obviously known to the court.

(2) In case the evidence cannot be substantiated with documents, according to the request of the applicant, the defendant shall be heard. In this case all evidence is allowed. The court may appoint oral hearing, as well.

#### **Section 40 Decision**

(1) In case the title allows for compulsory enforcement, the court shall decide whether enforcement order shall be attached thereto. The duties to be performed shall be named in German. Usually, for substantiating the decision reference to Council Regulation (EC) No. 4/2009, or specific applicable international treaty, as well as documents submitted by the applicant, is enough. For costs of proceedings, Section 788 of the Code of Civil Procedure shall be applied mutatis mutandis.

(2) In case the application is not admissible or substantiated, the court shall reject it, such decision shall be supported with reasons. The costs shall be covered by the applicant.

(3) The decision shall enter into force after communicating thereof to the parties to the case.

#### **Section 41 Enforcement order**

(1) Based on the decision according to the Section 40 subsection (1), the registrar of the Court bureau shall issue such enforcement order:

“Enforcement order pursuant to Section 36 of the Foreign Maintenance Act of 23 May 2011 (Federal Law Gazette, I, pp. 898). According to the decision ... (name of the court and the decision), compulsory enforcement of ... (name of the title) is allowed in the interests of ... (name of the person entitled) against ... (name of the person liable to pay).

The duties to be performed are as follows:

... (description of duties in German as follows from the foreign title; to be overtaken from the decision according to the Section 40 subsection (1)).

Compulsory enforcement must not exceed implementation of security measures, until the person entitled submits court order or evidence that compulsory enforcement is not restricted.”

In case the title includes a financial warranty, the following text shall be added to the enforcement order: “While the compulsory enforcement must not exceed the implementation of security measures, the person liable to pay may refuse a financial warranty in the amount of ... (indicate the sum of money the person entitled may demand) for ensuring the compulsory enforcement.”

(2) In case the compulsory enforcement is allowed only in relation to one or several foreign decisions, or another request described in a foreign title, or it is allowed only for part of the duties mentioned, the enforcement order shall be marked as “partial enforcement order according to the Section 36 of the Foreign Maintenance Act of the 23 May 2011 (Federal Law Gazette, I, pp. 898)”.

(3) The enforcement order shall be signed by the registrar of the Court bureau and sealed with the official court seal. The seal shall be placed either on the title or a page attached thereto. In case the title has a translation thereof, it shall be attached thereto.

#### **Section 42 Communication of the decision**

(1) In case the court allows for a compulsory enforcement (Section 40 subsection (1)), the applicant ex officio shall submit a certified copy of the decision, certified copy of the title attached to the enforcement order, and the translation thereof if necessary, as well as the necessary documents pursuant to Section 40 subsection (1) third sentence. The applicant shall provide with a certified copy of the decision, copy of the title attached to the enforcement order, as well as certificate for the consignment made.

(2) In case the court rejects application for assigning enforcement order (Section 40 subsection (2)), this decision shall be communicated to the applicant.

## **Subdivision 2 Complaints, appeals**

### **Section 43**

#### **Court of Appeal, submission of appeal, period of appeal**

- (1) Court of Appeal shall be the Higher Regional Court.
- (2) Appeal against the decision that has been taken by the Local court regarding application for assigning enforcement order can be submitted in the court whose decision is being appealed by submitting an appeal or explanation to the Court bureau for registering. Number of copies necessary for hearing the case shall be attached to the appeal.
- (3) Section 61 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall not be applied.
- (4) The appeal by the applicant against granting of compulsory enforcement shall be submitted:
  1. Within the scope defined by the Council Regulation (EC) No. 4/2009 and Agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, within the terms defined by Article 32(5) of the Council Regulation (EC) No. 4/2009;
  2. Within the scope defined by the Convention of 30 October 2007 on jurisdiction and recognition and enforcement of judgements in civil and commercial matters:
    - a) within one month from the shipping date in case the habitual residence of the applicant is within the State, or
    - b) within two months from the shipping date, in case the habitual residence of the applicant is foreign state.

The term shall be calculated since the day when the declaration of enforceability is communicated to the applicant either in person, or by sending it to his or her habitual residence. Extension of the term due to distance shall not be possible.

(5) Appeal shall be sent to the defendant ex officio.

### **Section 44**

#### **Objections against the action to be enforced by the appeal**

- (1) With an objection, which is aimed against granting of compulsory enforcement by enforcing the decision, the person liable to pay may object also the decision itself, so far as the reasons it is substantiated by have arisen after the day of taking the decision.
- (2) With an objection, which is aimed against granting of compulsory enforcement in a court settlement or authentic act, the person liable to pay may submit objections against the decision itself, without regarding the restrictions mentioned in the subsection (1).

### **Section 45**

#### **Procedure and decision on appeal**

- (1) Reasons must be given for the decision of the Court of Appeal, and the decision can be taken without summoning an oral court hearing. The defendant shall be heard prior to decision is taken.
- (2) In case an oral court hearing has not been planned, applications and explanations can be submitted to the Court bureau for registering. In case an oral court hearing is planned, costs as set out in the Section 215 of the Code of Civil Procedure shall be applied.

(3) Copy of the complete decision shall be sent to the applicant and defendant ex officio upon announcing the decision.

(4) In case compulsory enforcement has been granted for the first time with a decision by the Court of Appeal, the employee of the Court of Appeal secretariat shall issue the enforcement order. Section 40 subsection (1) second and fourth sentence, Section 41, and Section 42 subsection (1) shall be applied mutatis mutandis. Addition that compulsory enforcement must not exceed security measures shall be adopted only in cases when the Court of Appeal has given such order under Section 52 subsection (2). The content of the addition shall be determined by the content of the order.

#### **Section 46**

##### **Right to assistance and term of cassation**

(1) Cassation may be submitted against decision by the Court of Appeal.

(2) Cassation shall be submitted within one month.

(3) The term for the submitting a cassation shall start with the day of sending the decision (Section 45 subsection (3)).

(4) Section 75 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall not be applied.

#### **Section 47**

##### **Submitting and justification of cassation**

(1) Cassation shall be submitted by bringing a contentious appeal in the Federal Court of Justice.

(2) The cassation shall be justified. Section 71 subsection (1) first sentence of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall not be applied. In case the cassation is based on the fact that the Court of Appeal has derogated from principles laid down by an adjudication of the Court of Justice of the European Union, the adjudication shall be named from which the appealed decision derogates.

#### **Section 48**

##### **Procedure and decision on cassation**

(1) Federal Court of Justice can only verify whether the decision contravenes law of the European Union, specific international treaty, or other provisions jurisdiction of which exceeds that of the Higher Regional Court.

(2) Federal Court of Justice may make a decision on the cassation without summoning an oral court hearing. Sections 73 and 74 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied mutatis mutandis.

(3) In case the Federal Court of Justice grants compulsory enforcement of the title for the first time, the employee of this court's secretary shall issue the enforcement order. Section 40 subsection (1) second and fourth sentence, Section 41, and Section 42 subsection (1) shall be applied mutatis mutandis. Addition on limiting the compulsory enforcement is not possible.

#### **Subdivision 3**

##### **Limiting compulsory enforcement with provisions of security measures and unlimited compulsory enforcement**

#### **Section 49**

##### **Verifying limitation**

Objections of the person liable to pay that with the compulsory enforcement, the limitation of security measures has not been complied with under the Council Regulation (EC) No. 4/2009 or the specific

international treaty, or order that is based on any of such laws (Section 52 subsection (2)), objections of the person entitled that a specific compulsory enforcement measure is compatible with the specific limitation, under Section 766 of the Code of Civil Procedure shall come into effect by reminding on the enforceability at the competent court (Section 764 of the Code of Civil Procedure).

### **Section 50**

#### **Security of the person liable to pay**

- (1) Until compulsory enforcement of the title requiring financial warranty must not exceed the security measures, the person liable to pay has rights to avoid compulsory enforcement by a warranty in the amount the person entitled may demand.
- (2) Compulsory enforcement shall be cancelled and the initiated enforcement measures shall be stayed in case the person liable to pay proves the necessary evidence for cancelling the compulsory enforcement with a public act.

### **Section 51**

#### **Auction of movable property**

In case a movable property has been pledged, and compulsory enforcement measures must not exceed the security measures, the court responsible for the enforcement may issue an order saying that the property shall be auctioned and the profit shall be retained in case there are suspicions on a remarkable decrease in value or the keeping thereof would cause unreasonable costs.

### **Section 52**

#### **Unlimited compulsory enforcement; special legal acts**

- (1) In case the Court of Appeal rejects the appellation of person liable to pay against granting the compulsory enforcement, or grants enforceability of the title pursuant objection by the person entitled, compulsory enforcement can be continued by exceeding the security measures.
- (2) Upon application by the person liable to pay, the court may order that together with the end of the appellation term or until decision is taken regarding this objection, the compulsory enforcement shall not exceed the amount of the security measures or can only decrease it. The order can be issued only when it is convincingly concluded that further enforcement would not cause essential unfavourable situation for the person liable to pay. Section 713 of the Civil Procedure Code shall be applied mutatis mutandis.
- (3) In case a cassation is submitted, the Federal Court of Justice upon application by the person liable to pay may issue and order under the subsection (2). The Federal Court of Justice upon receiving application by the person entitled may amend or cancel the order of the Court of Appeal that was issued under the subsection (2).

### **Section 53**

#### **Unlimited compulsory enforcement ordered by the Local Court**

- (1) Compulsory enforcement of a title which has been awarded enforcement order by the registrar of the Court bureau shall be continued by exceeding the security measures pursuant to application by the person entitled, in case a certificate of the employee of the Court bureau is provided stating that the enforcement is not limited.
- (2) Certificate shall be issued to the person entitled upon his or her request in case:
  1. person entitled has not submitted cassation until the end of appellation term;
  2. Court of Appeal rejects objection by the person liable to pay and does not issue an order under Section 52 subsection (2);
  3. Federal Court of Justice has cancelled the order of Court of Appeal regarding the cassation under Section 52 subsection (2) (Section 52 subsection (3) second sentence), or

4. Federal Court of Justice has granted compulsory enforcement of the title.
- (3) The title shall lose its compulsory enforceability even if it is limited with security measures as soon as decision of the Court of Appeal has been taken, announced, or issued on the fact that the title is not granted a compulsory enforcement.

#### **Section 54**

##### **Unlimited compulsory enforcement ordered by the Court of Appeal**

- (1) Compulsory enforcement of a title which has been awarded enforcement order with addition that compulsory enforcement based on the court order must not exceed security measures (Section 45 subsection (4) third sentence) by the registrar of the Court of Appeal bureau shall be continued by exceeding the security measures according to the application by the person entitled, in case a certificate of the employee of the Court bureau is provided stating that the enforcement is not limited.
- (2) Certificate shall be issued to the person entitled upon his or her request in case:
  1. person liable to pay has not submitted cassation until the end of term (Section 46 subsection (2)),
  2. Federal Court of Justice has cancelled the order of Court of Appeal regarding the cassation under Section 52 subsection (2) (Section 52 subsection (3) second sentence), or
  3. Federal Court of Justice has rejected the cassation by the person liable to pay.

#### **Subdivision 4**

##### **Recognition and enforcement of maintenance titles according to international treaties**

#### **Section 55**

##### **Proceedings**

- (1) In proceedings that is aimed at deciding whether a foreign decision shall be recognised Sections 36 to 38, Section 40 subsection (2), Sections 42 to 45 subsection (1) to (3), Sections 46 and 47, as well as Section 48 subsections (1) and (2) shall be applied mutatis mutandis.
- (2) In case the application is justified, the court shall decide to recognize the decision.

#### **Section 56**

##### **Decision on legal expenses**

In the cases referred to in the Section 55 subsection (2) the legal expenses of the defendant shall be reimbursed. Objection regarding decision on legal expenses (Section 43) can be restricted. In this case the legal expenses of the applicant shall be reimbursed if the defendant by his or her behaviour has not given a reason for declaring the application.

#### **Division 4**

##### **Recognition and enforcement of decisions under international treaties**

#### **Subdivision 1**

##### **General part**

#### **Section 57**

##### **Application of provisions**

In recognition and declaring enforceability of foreign maintenance titles according to the international treaties described in the Section 1 subsection (1) first sentence second part, Sections 36 to 56 shall be applied mutatis mutandis.

#### **Section 58**



### **Hearing**

Court shall decide on the procedure of hearing pursuant to Section 36 without hearing the defendant.

### **Section 59**

#### **Term of appeal**

- (1) Objection on the decision taken by the Local Court on application for issuing an enforcement order shall be submitted within one month after such issue.
- (2) In case the place of communication of the decision to the defendant is abroad or it is made by public announcement and the court considers the term mentioned in the subsection (1) is insufficient, with a decision it may set a longer term of appeal under Section 40, or later by a separate decision which is taken without summoning an oral court hearing. The term for the appeal as set in the subsection (1) shall be marked on the certificate on the communication (Section 42 subsection (1) second sentence). Provisions regarding the beginning of the term of appeal remain untouched also in case the term is set later.

### **Section 60**

#### **Legal restrictions to compulsory enforcement**

Compulsory enforcement shall be restricted with provisions of security measures until the term of appeal is open and no decision regarding the appeal has been taken.

### **Subdivision 2**

#### **Recognition and enforcement of maintenance titles under the Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations**

### **Section 61**

#### **Restrictions to recognition and enforcement**

- (1) Public acts of another contracting state shall be recognised and enforced only in case this state has issued a declaration in accordance with the Article 25 of the Convention.
- (2) Decisions on maintenance obligations between affinity and collateral relatives made by another contracting state shall be rejected in case:
  1. no maintenance obligations exist according to the laws of the state which person liable to pay and the person entitled belong to, or
  2. person liable to pay and the person entitled have different citizenships and there are no maintenance obligations according to the laws in force in the regular habitual residence of the person liable to pay.

### **Section 62**

#### **Proceedings for appeals falling under the scope of the Hague Convention**

- (1) Apart from Section 59 subsection (2) first sentence, term of appeal by the person liable to pay against granting the compulsory enforcement shall be two months in case the communication to the person liable to pay is taking place abroad.
- (2) The Higher Regional Court can stay its decision on the appeal regarding granting the compulsory enforcement upon application by the person liable to pay in case the decision has been appealed in the state of origin or the term of appeal has not ended. In other case, the Higher Regional Court may set a term within which the appeal shall be submitted. The Court may also decide that granting the compulsory enforcement shall be subject to security measures.
- (3) In granting the recognition of the decision subsection (2) shall be applied mutatis mutandis.

### **Subdivision 3**



**Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters**

**Section 63**

**Special provisions regarding appeal**

- (1) The term of appeal by the defendant against the decision granting the compulsory enforcement shall be two months starting from the day the decision was communicated to the defendant in person or to his habitual residence, in case the habitual residence or residence of the defendant is another contracting state of this Convention. Extension of the term due to distance shall not be possible. Section 59 subsection (2) shall not be applied.
- (2) Section 62 subsections (2) and (3) shall be applied mutatis mutandis.

**Division 5**

**Proceedings with formal reciprocity**

**Section 64**

**Enforceability of foreign titles**

- (3) The enforceability of foreign titles in proceedings with reciprocity pursuant to Section 1, subsection (1), first sentence, no. 3 shall be governed by section 110, subsections (1) and (2) of the Action Procedure in Family Matters and Non-Contentious Matters. Final and binding effect of the decision is not required for the declaration of enforceability.
- (4) If the foreign title is to be declared enforceable, the court may, upon application by one of the parties, modify in its enforcement order the sum of maintenance awarded in the foreign title in terms of the amount and the duration for which payments are to be made. If the foreign decision has obtained final and binding force, a modification is permissible only in accordance with section 238 of the Act on Procedure in Family Matters and Non-Contentious Matter.

**Chapter 3**

**Enforcement, application for rejection of enforcement, special proceedings, reimbursement of damages**

**Division 1**

**Enforcement, application for rejection of enforcement, special proceedings**

**Section 65**

**Enforcement**

For enforcement of a foreign title Section 120 subsection (1) of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied, unless the Council Regulation (EC) No. 4/2009 and this Act provide otherwise.

**Section 66**

**Application for rejection of enforcement**

- (1) In case the foreign title shall be enforced without the procedure of exequatur under Article 17 or 48 of the Council Regulation (EC) No. 4/2009, the person liable to pay may object the demand itself pursuant to Section 767 of the Code of Civil Procedure, only when the reasons of the objections are reasonable and arisen only after issuing the title, and no rights to appeal can be used in the state of origin.

(2) In case the compulsory enforcement of the title has been allowed, the person liable to pay may object the demand itself as provided in Section 767 of the Code of Civil Procedure only when the reasons of the objections have arisen:

1. after the term when appeal could have been made, or
  2. if the appeal has been submitted after this procedure is completed.
- (3) According to the Section 767 of the Code of Civil Procedure, application shall be submitted to that court which has already decided on granting of the enforcement order. In cases provided by the subsection (1), jurisdiction shall be determined according to the Section 35 subsections (1) and (2).

### **Section 67**

#### **Proceedings after rejecting an enforceable foreign title or amending it in the state of origin**

- (1) In case the title is cancelled or amended in the state of origin, and the person liable to pay cannot use this argument in the procedure granting the compulsory enforcement of the title any more, he or she may apply for cancelling or amending of granting of the compulsory enforcement in a special proceedings.
- (2) Decision on the application shall lie with the jurisdiction of the Local Court that has taken decision on granting of the compulsory enforcement.
- (3) The application may be submitted to the court in writing or given for registering at the Court bureau. Decision on the application can be taken without summoning the court hearing. Prior to taking the decision, the person liable to pay shall be heard with a court decision. Section 45 subsections (2) and (3) shall be applied mutatis mutandis.
- (4) This decision can be appealed. The term of appeal shall be one month. Sections 58 to 60, Section 62, Section 63 subsection (3), Sections 65 to 74 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied mutatis mutandis.
- (5) For the stay of compulsory enforcement and cancelling of the measures already enforced Sections 769 and 770 of the Civil Procedure Code shall be applied mutatis mutandis. Stay of enforcement measures can also be applied without security.

### **Section 68**

#### **Cancelling or amending of foreign titles enforcement of which has been granted.**

In case the decision has been cancelled or amended in the country of origin, and the party benefiting from that cannot use this fact any more in the procedure of hearing the application of recognition, Section 67 subsections (1) to (4) shall be applied accordingly.

### **Division 2**

#### **Reimbursement of damages due to ungrounded enforcement**

### **Section 69**

#### **Reimbursement of damages due to ungrounded enforcement**

- (1) In case the granting of the compulsory enforcement after the appeal (Section 43) or cassation (Section 46) is stayed or amended, the person entitled is obligated to reward the person liable to pay a compensation for damages that have arisen due to enforcing the title or in the result of rejecting the enforcement.
- (2) The same applies if:
1. granting of the compulsory enforcement in accordance with Section 67 is stayed or amended, or the decision on granting of the compulsory enforcement it could have been appealed in regular appeal procedure in the state of origin upon issuing thereof according to the laws of the state issuing it, or

2. title to be enforced without the procedure of exequatur has been stayed in the state of origin under Article 17 of the Council Regulation (EC) No. 4/2009, and the title within the period of compulsory enforcement could have been appealed in regular appeal procedure.

(3) Securing of enforcing of the application shall lie with the Local Court that has taken decision on applying enforcement order to this title. In cases provided by subsection (2) second part, the jurisdiction shall be determined according to the Section 35 subsections (1) and (2).

## **Chapter 4**

### **German court decisions; procedure of reminding**

#### **Section 70**

##### **Application of the person liable to pay, under the Article 19 of the Council Regulation (EC) No. 4/2009**

(1) Application of the person liable to pay for reviewing decision, under the Article 19 of the Council Regulation (EC) No. 4/2009, shall be submitted to the court issuing the decision. Section 719 subsection (1) of the Code of Civil Procedure shall be applied mutatis mutandis.

(2) In case the person liable to pay does not submit the application within the term as set by the Article 19(2) of the Council Regulation (EC) No. 4/2009 or the provisions of the Article 19(1) of the Council Regulation (EC) No. 4/2009 are not present, the court with a decision shall reject the application. The decision may be taken without summoning an oral court hearing.

(3) In case provisions of the Article 19 of the Council Regulation (EC) No. 4/2009 are present, the procedure shall be continued. It shall be continued from where it was stayed previously. Sections 343 to 346 of the Civil Procedure Code shall be applied mutatis mutandis. Upon application of the person liable to pay, the compulsory enforcement shall be stayed also without security measures.

#### **Section 71**

##### **Certifying domestic titles**

(1) Courts, authorities, or public notaries responsible for issuing of enforceable titles shall be responsible for:

1. issuing the forms mentioned in the Article 20(1)(b), Article 28(1)(b), Article 40(2), and Article 48(3) of the Council Regulation (EC) No. 4/2009,

2. issuing of certificates mentioned in the Articles 54, 57, and 58 of the Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

(2) If according to the subsection (1), the courts are responsible for issuing forms or certificates, these titles shall be issued by the Local Court or, if the proceedings are carried out by a higher court, the higher court. The functional responsibility shall lie with the court responsible for issuing of the enforceable title. Appeal on the decision for issuing a form or certificate shall be conducted according to the appeal rules for the decision granting the enforcement order.

(3) According to the Article 20(1)(b) and Article 48(3) of the Council Regulation (EC) No. 4/2009, issuing of form shall not exclude rights to granting of the enforcement order, according to the Section 724 of the Code of Civil Procedure.

#### **Section 72**

##### **Decoding of compulsory enforcement of dynamic maintenance obligations title in abroad**

In case the maintenance obligations title, in which the interest rate has been set from the minimum maintenance according to the Section 1612a of the Civil Law, has to be enforced abroad, Article 245 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction shall be applied.

#### **Section 73**

### **Completion of domestic decisions on enforcement in abroad**

- (1) In case any of the parties opt for submitting a judgement by default or decision on recognition, which has been formulated in contracted form according to the jurisdiction of Section 38 subsection (4) fourth part of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction, to another contracting state or Member State, such decision shall be completed upon application of one of the involved parties. The application shall be submitted in writing or to the court which has issued the decision or communicated for the Court bureau for registering. Decision on the application shall be taken without summoning a court hearing.
- (2) In order to complete the decision, a justification shall be formed, and signed by judges separately, and submitted to the court bureau; justification can be signed by judges who have not participated in the decision making process.
- (3) As regards the correction of statement of the case, the additional justification shall be drawn-up according to Section 113 subsection (1) second sentence of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction and Section 320 of the Code of Civil Procedure. However, in decision making process on correction of the application, judges can be involved who have not participated in the decision making process or later formulation of the justification.
- (4) For the completion of warrants of arrest and provisional orders that are to be enforced in another contracting state or Member State and that have not been added a justification, previous subsections shall be applied mutatis mutandis.

### **Section 74**

#### **Enforcement order for enforcement in abroad**

Enforcement orders, warrants of arrest, and provisional orders that are to be enforced in another contracting state or Member State shall be granted an enforcement order also in case it is not necessary for compulsory enforcement in the domestic state under Section 796 subsection (1) and Section 929 subsection (1) of the Code of Civil Procedure, and Section 53 subsection (1), and Section 119 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction.

### **Section 75**

#### **Proceedings for payment orders for addressees in abroad**

- (1) Proceedings for payment order shall be conducted also in cases when the decision on payment order has to be communicated to another contracting state or Member State. In such case the subject matter of proceedings can also be a specific amount of money in a foreign currency.
- (2) In case the applicant declare that the jurisdiction of the court conducting the proceedings is based on a choice of forum clause, he or she shall add the necessary documents on court choice to the application for payment order.
- (3) The term for appeal shall be one month (Section 692 subsection (1) third part of the Code of Civil Procedure).

### **Chapter 5**

#### **Costs; transitional provisions**

### **Division 1**

#### **Costs**

### **Section 76**

#### **Translations**

Amount of remuneration for translations ordered by the Central Authority shall be decided according to the German Judicial Remuneration and Compensation Act.

## **Division 2 Transitional provisions**

### **Section 77 Transitional provisions**

(1) Recognition and granting of enforceability of foreign maintenance obligations titles for proceedings started prior to 18 June 2011 shall be conducted according to the edition of the Act on Recognition and Compulsory Enforcement as of 3 December 2009 (Federal Law Gazette I, pp. 3830) in the scope of the following laws:

1. Council Regulation (EC) of 22 December 2000 No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
2. Agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 299 of 16.11.2005, pp. 62);
3. the Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 339 of 21.12.2007, pp. 3);
4. Convention of 16 September 1988 on jurisdiction and the enforcement of judgments in civil and commercial matters (Federal Law Gazette, 1994 II, pp. 2658); and
5. the Hague Convention of 2 October 1973 on the recognition and enforcement of decisions relating to maintenance obligations; (Federal Law Gazette 1986 II pp. 826).

Recognition and declaring of enforceability of foreign maintenance obligations titles in proceedings with formal reciprocity (Section 1 subsection (1) first sentence third part) that have been initiated prior to 18 June 2011, shall be conducted according to the Foreign Maintenance Act of 19 December 1986 (Federal Law Gazette I, pp. 2563), last amended by Section 4 subsection (10) of the Act of 17 December 2006 (Federal Law Gazette I, pp. 3171).

- (2) In relation to foreign maintenance obligations proceedings and proceedings on granting legal aid not completed on 18 June 2011, the jurisdiction shall remain untouched.
- (3) Sections 30 to 34 shall be applied only to those titles that have been submitted based on the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations (OJ L 331, 16.12.2009, pp. 19).
- (4) Sections 16 to 19 shall be applied also to claims that have been completed by the Central Authority prior to 18 June 2011.

### **Section 2 Amendments to the Act on Senior Judicial Officers**

The Act on Senior Judicial Officers of 5 November 1969 (Federal Law Gazette I, pp. 2065), last amended by the Section 6 of the Act of 30 July 2009 (Federal Law Gazette I, pp. 2474) shall be amended as follows:

1. Section 20 shall be amended as follows:
  - a) Subsection (6a) shall be added after the subsection (6):  
“6a. Decisions according to the Section 22 subsection (3) of the Foreign Maintenance Act (Federal Law Gazette I, pp. 898) of 23 May 2011;”
  - b) Subsection 10 shall be amended as follows:

“10. Issuing of copy according to the Article 20(1) of the Council Regulation of 18 December 2008 (EC) No. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations;”

c) In the subsection (16a) before the closing semicolon the following text shall be inserted „and according to the Section 51 of the Foreign Maintenance Act (Federal Law Gazette I, pp. 898) of 23 May 2011.”

2. Section 29 shall be amended as follows:

“Section 29. Tasks in international legal relations.

Senior Judicial Officers shall be assigned the following tasks:

1. execution of foreign requests for service assigned by law to the registry of the Local Court;
2. acceptance of applications on legal aid in maintenance obligations matters in accordance with the Foreign Maintenance Act (Federal Law Gazette I, pp. 898) of 23 May 2011, and the acceptance of a request with which a claim to the granting of maintenance is to be asserted in accordance with the Section 10 of the Foreign Maintenance Act;
3. acceptance of applications according to the Section 42 subsection (1) and the decision on applications in accordance of International Family Law Procedure Act of 26 January 2005 (Federal Law Gazette I, pp. 162).”

### **Section 3**

#### **Amendments to the Legal Aid Act**

According to the Section 10 of the Legal Aid Act of 18 June 1980 (Federal Law Gazette I, pp. 689), last amended by the Section 27 of the Act of 17 December 2009 (Federal Law Gazette I, pp. 2586), the following Section 10a shall be added:

“Section 10a.

(1) According to the Council Regulation of 18 December 2008 (EC) No. 4/2009 (OJ L7, 10.01.2009, pp. 1), legal aid in matters related to maintenance obligations shall be provided without regarding the personal and economic circumstances of the applicant according to the Articles 46 and 47(2) of the mentioned Regulation.

(2) According to the Section 10 subsection (1), the jurisdiction over the outgoing requests for foreign legal aid in matters related to maintenance obligations shall lie with the Local Court that is competent at the seat of the Higher Regional Court in the district of which the applicant has his or her place of habitual residence. Jurisdiction over the incoming requests shall lie with the court as mentioned in the Section 4 subsection (1) second sentence.”

### **Section 4**

#### **Amendments to the Code of Civil Procedure**

Section 1077 subsection (1) of the Code of Civil Procedure of 5 December 2005 (Federal Law Gazette I, pp. 3202; 2006 I, pp. 431; 2007 I, pp. 1787), last amended by the Section 2 of the Act of 28 April 2011 (Federal Law Gazette I, pp. 666) shall be added the following sentence:

(4) Section 21 subsection (1) of the Foreign Maintenance Act shall remain untouched.

### **Section 5**

#### **Amendments to the Federal Central Register Act**

Section 27 of the Federal Central Register Act of 5 December 2005 (Federal Law Gazette I, pp. 1229; 1985 I, pp. 195), last amended by the Section 110 subsection (1) of the Act of 8 December 2010 (Federal Law Gazette I, pp. 1864), after the text “(Federal Law Gazette I, pp. 162)” the word “or” shall be replaced with a comma, and after the text “(Federal Law Gazette I, pp. 314)” the words “or according to the Sections 16 and 17 of the Foreign Maintenance Act of 23 May 2011 (Federal Law Gazette I, pp. 898)” shall be inserted.

Federal Law Gazette on the Internet: [www.bundesgesetzblatt.de](http://www.bundesgesetzblatt.de) | Federal law publishing services

[www.bundesanzeiger-verlag.de](http://www.bundesanzeiger-verlag.de)



## **Section 6**

### **Amendments to the Recognition and Enforcement Implementation Act**

The Recognition and Enforcement Implementation Act of 3 December 2009 (Federal Law Gazette I, pp. 3830) shall be amended as follows :

1. The Table of Contents shall be amended as follows:
  - a) In the data on the Chapter 1 Division 3 the words “enforcement counter claim” shall be replaced with the words “claim for enforcement protection”.
  - b) Data on the Section 33 shall be worded as follows: “Section 33. (repealed)”.
  - c) Data on the Chapter 2 Division 2 shall be worded as follows: “Division 2 (repealed); Sections 37 to 39 (repealed)”.
2. Section 1 shall be amended as follows:
  - a) Section 1 subsection (1) shall be amended as follows:
    - aa) Subsection (b) shall be repealed.
    - ab) Current subsections (d) to (f) shall become subsections (c) to (e).
    - b) The following subsection (3) shall be added:  
“(3) The scope of the Foreign Maintenance Act of 23 May 2011 (Federal Law Gazette I, pp. 898) shall remain untouched.”
3. In the division heading before Sections 11 and 14 the words “enforcement counter claim” shall be replaced with the words “claim for enforcement protections”.
4. Section 25 subsection (1): the wording “until 3” shall be replaced with wording “and 2”.
5. Section 31: the wording “Section 35 subsection (1)” shall be replaced with wording “Section 53 subsection (1) and Section 119”.
6. Section 33 shall be repealed.
7. Chapter 2 Division 2 shall be repealed.

## **Section 7**

### **Amendments to the International Family Law Procedure Act**

Section 18 subsection (2) of the International Family Procedure Act of 26 January 2005 (Federal Law Gazette I, pp. 162), last amended by Section 26 of the Act of 8 December 2010 (Federal Law Gazette I, pp. 1864), the wording “Section 130 subsection (1)” shall be replaced with the wording “Section 114 subsection 1”.

## **Section 8**

### **Amendments to the Court Fees Act**

The Court Fees Act of 5 May 2004 (Federal Law Gazette I, pp. 718), last amended by Section 12 of the Act of 22 December 2010 (Federal Law Gazette I, pp. 2248), shall be amended as follows:

1. Section 1 subsection (1) first sentence shall be amended as follows:
- b) After the subsection (12) the following subsection (13) shall be inserted:  
“13. According to the Foreign Maintenance Act so far as the jurisdiction shall lie with the enforcing court;”
- c) Current subsections (13) to (17) shall become subsections (14) to (18).
2. Section 22 subsection (1) first sentence: wording Section 1 subsection (1) first sentence subsection (14)”.
3. The wording “or according to the Section 31 of the Foreign Maintenance Act” shall be added to the item 2119 (Charter of costs) Object to be charged of the Annex 1”.

## **Section 9**

### **Amendments to the Regulations on Exparte Costs**



Section 148a subsection (3) of the Regulations on Exparte Costs (Federal Law Gazette III, 361-1 edited version), last amended by Section 7 of the Act of 22 December 2010 (Federal Law Gazette I, pp. 2255) shall be amended as follows:

1. First sentence: the wording “or according to the Section 35 subsection (3) of the Foreign Maintenance Act” shall be inserted after the wording “Recognition and Enforcement Implementation Act”.
2. Second sentence: the wording “or upon the issue of form or certificate under Section 71 subsection (1) of the Foreign Maintenance Act” shall be inserted after the wording “Section 56 of the Recognition and Enforcement Implementation Act”.

### **Section 10**

#### **Amendments to the Family Matters Court Charges Act**

Annex 1 (Charter of costs) of the Family Matters Court Charges Act of 17 December 2008 (Federal Law Gazette I, pp. 2586, pp. 2666), last amended by Section 14 of the Act of 22 December 2010 (Federal Law Gazette I, pp. 2248), shall be amended as follows:

1. Item 1711: the wording “or issue a form or certificate under Section 71 subsection (1) of the Foreign Maintenance Act”.
2. Item 1713: the subsection shall be amended as follows:

No.	Object to be charged	Charge or rate of charge according to the Section 28 of the Family Matters Court Charges Act
“1713	Proceedings according to the 1. Section 3 subsection (2) of the Act on the Convention of 6 June 1959 between the Federal Republic of Germany and Austria on the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters (Federal Law Gazette III, 319-12, edited version), last amended by the Section 23 of the Act of 27 July 2001 (Federal Law Gazette I, pp. 1887), and 2. Section 34 subsection (1) of the Foreign Maintenance Act .....	EUR 50,000”.

### **Section 11**

#### **Amendments to the Lawyer Remuneration Act**

The Lawyer Remuneration Act of 5 May 2004 (Federal Law Gazette I, pp. 718, pp. 788), last amended by Section 6 of the Act of 22 December 2010 (Federal Law Gazette I, pp. 2300), shall be amended as follows:

1. Section 18 subsection (1) paragraph 6: the wording “as well as all claim application procedures according to the Section 1084 subsection (1), Sections 1096 or 1109 of the Code of Civil Procedure” shall be replaced with the wording “, all claim application procedures according to the Section 1084 subsection (1),

Sections 1096 or 1109 of the Code of Civil Procedure, as well as claim application procedures according to the Section 31 of the Foreign Maintenance Act”.

2. Section 19 subsection (1) shall be amended as follows:

1. Paragraph 5 shall be amended as follows.

“5. Procedure

a. On reminding (Section 573 of the Code of Civil Procedure),

b. Complaint on violations of rights to be heard,

c. According to the Article 18 of the Regulation (EC) No. 861/2007 of the European Parliament and of the Council of 13 June 2007 establishing a European Small Claims Procedure,

d. According to the Article 20 of the Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure,

e. According to the Article 19 of the Council Regulation (EC) No. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

b) In the paragraph 9 before the closing semicolon a comma and the wording “issuing of forms or certificates according to the Section 71 subsection (1) of the Foreign Maintenance Act” shall be inserted.

3. Section 2 first sentence of the Annex 1 (Charter of Remuneration): at the data at item 2503 the closing period shall be replaced with semicolon and the wording “cut in charges 2401 and 3103 does not take place” shall be added.

## **Section 12**

### **Amendments to the Introductory Act to the Civil Code**

The Introductory Act to the Civil Code of 21 September 1994 (Federal Law Gazette I, pp. 2494, 1997 I, pp. 1061), last amended by Section 2 of the Act of 12 April 2011 (Federal Law Gazette I, pp. 615), shall be amended as follows:

1. Section 3 subsection (1) shall be amended as follows:

a. Paragraph (a) the wording, “as well as” shall be replaced with a comma.

b. Paragraph (b) the word “or” shall be replaced with the wording “as well as”.

c. Paragraph (c) shall be added:

“c) The Council decision of 30 November 2009 on the conclusion by the European Community of the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations (OJ L 331, 16.12.2009, pp. 17), or”

2. Section 17b subsection (1) second sentence shall be worded as follows:

“In partnership hereditary rights, the general laws shall be applied, in case the partnership is not based on lawful hereditary rights, the first sentence shall be applied.”

3. Section 18 shall be repealed.

## **Section 13**

### **Amendments to the Social Insurance Code Book X**

Section 74 of the Social Insurance Code Book X — Social and Administrative Procedures and Protection of Social Data — of the version of 18 January 2001 (Federal Law Gazette I, pp. 130), last amended by Section 5 of the Act of 5 August 2010 (Federal Law Gazette I, pp. 1127), shall be worded as follows:

“Section 74

Giving information on failing to comply with maintenance obligations and pension compensation obligations

(1) Transferring of social data is allowed if it is necessary for:

1. Conducting legal procedure:

- a. or initiating compulsory enforcement according to the maintenance obligations claim as provided by the law or treaty, or other applicable claim, or
  - b. conducting procedure on pension compensation obligations according to the Section 220 of the Act on the Procedure in Family Matters and in Matters of Non-contentious Jurisdiction, or
2. complying with the following regulations:
- a. complying with maintenance obligations outside the proceedings set by law or treaty, as described in the subsection (1) paragraph (a), if the person has to provide the mentioned information according to the Section 1605 of the Civil Code, under the Civil Code, especially Section 1605 or Section 1361 subsection (4) fourth sentence, Section 1615a or Section 16151 subsection (3) first sentence.
  - b. complying with pension compensation obligations outside the proceedings as described in the subsection (1) paragraph (b), if the person has to provide the mentioned information according to the Section 4 subsection (1) first sentence of the Compensation Pension Act, or
3. The Section 22 subsection (1) third sentence paragraph (a) part (bb) shall be applied if the person entitled to pension compensation so far as the person entitled to pension compensation under Section 22 subsection (1) third sentence paragraph (a) part (bb) in relation to the Section 4 subsection (1) of the Compensation Pension Act has to provide the necessary information. In cases referred to by subsections (2) and (3) the transfer of information shall be allowed only if the person who has to provide the necessary information has not complied with this request or has not complied with it in full, after this person has been informed about the rights to transfer information according to the Section 35 Chapter one of this Book. These rights can be used to learn the address of persons who have to provide the requested information.
- (2) Transferring of data on state pension insurance and jobseekers social guarantees is allowed also in cases when it is necessary for the Central Authority (Section 4 of the Foreign Maintenance Act) to carry out the functions as set out by the Section 5 of the Foreign Maintenance Act and to reach the targets set by the Sections 16 and 17 of the Foreign Maintenance Act.”

## **Section 14**

### **Amendments to the Road Traffic Act**

The Road Traffic Act of 5 March 2003 (Federal Law Gazette I, pp. 310, pp. 919), last amended by the Section 1 of the Act of 2 December 2010 (Federal Law Gazette I, pp. 1748), shall be amended as follows:

1. Section 35 shall be amended as follows:
    - a) Subsection (1) shall be amended as follows:
      - aa) Part 12: word “or” shall be replaced with a comma.
      - ab) Part 13: the closing period shall be replaced with the word “or”.
      - ac) The following part 14 shall be added:

“14. For reasons mentioned in the Section 17 of the Foreign Maintenance Act.”
  2. Subsection (4b): the wording: “Section 8 subsection (3)” shall be replaced with the wording “Sections 16 and 17”, and after the words “Foreign Maintenance Act” the words “23 May 2011 (Federal Law Gazette I, pp. 898) shall be inserted.
2. After Section 36 subsection (2b) the following subsection 2(c) shall be inserted:  
“(2c) Providing information from the Central Vehicle Register under Section 35 subsection (1) paragraph 14 to the Central Authority can be conducted by an automatic procedure (Section 4 of the Foreign Maintenance Act).”

## **Section 15**

### **Amendments to the Vehicle Registration Act**

Vehicle Registration Act of 3 February 2011 (Federal Law Gazette I, pp. 139), last amended by the Section 1 of the Act of 4 April 2011 (Federal Law Gazette I, pp. 549), shall be amended as follows:

1. After the Section 39 subsection (5) the following subsection (5a) shall be added:

“(5a) For receiving information from the Central Vehicle Register by automatic procedure, according to the Section 36 subsection (2c) of the Road Traffic Law, the data mentioned in the subsection 2 paragraph (1) parts (a) and (b) in order to clarify the following data:

- 1) In case of natural person: names, surname, name of the order or artist, maiden names, place and date of birth, or
- 2) In case of legal person: name of the institution or organisation, or owner, address of the holder if relevant. The data mentioned in the first sentence shall be available to the Central Authority (Section 4 of the Foreign Maintenance Act).”, or

2. Section 51 first sentence shall be deleted.

## **Section 16**

### **Other amendments to the Road Traffic Act**

The Road Traffic Act of 5 March 2003 (Federal Law Gazette I, pp. 310, pp. 919), last amended by the Section 1 of the present Act, shall be amended as follows:

1. Section 35 subsection (1) shall be amended as follows:

- a) Paragraph 13 the word “or” shall be replaced with a comma.
- b) Paragraph 14 the closing period shall be replaced with the word “or”.
- c) The following paragraph 15 shall be added:

“15. For reasons mentioned in the Section 8021 of the Code of Civil Procedure.”

2. After Section 36 subsection (2c), the following subsection (2d) shall be added:

“(2d) Providing information from the Central Vehicle Register according to the Section 35 subsection (1) paragraph 15 can be carried out by an automatic procedure initiated by the law enforcement officer.”

## **Section 17**

### **Other amendments to the Vehicle Registration Act**

Section 35 subsection (5) of the Vehicle Registration Act of 3 February 2011 (Federal Law Gazette I, pp. 139), last amended by the Section 15 of the present Act, shall be amended as follows: after the wording “Section 36 subsection (2c)” the wording “and subsection (2d)” shall be added, and after the wording “(Section 4 of the Foreign Maintenance Act)” the wording “as well as the law enforcement officer” shall be added.

## **Section 18**

### **Amendments to the Act on reform in collecting evidences and implementing decisions**

The Section 4 subsection (16) paragraph (2) part (a) subpart (3), as well as the Section 17 of the Act on reform in collecting evidences and implementing decisions of 29 July 2009 (Federal Law Gazette I, pp. 2258) shall be repealed.

## **Section 19**

### **Amendments to the Act on the Convention of 20 June 1956 on the Recovery Abroad of Maintenance**

Sections 2 to 4 of the Act on the Convention of 20 June 1956 on the Recovery Abroad of Maintenance (Federal Law Gazette III, 319-10, revised edition), last amended by the Section 4 subsection (8) of the Act of 17 December 2006 (Federal Law Gazette I, pp. 3171) shall be deleted.

## **Section 20**

### **Entering into force, becoming invalid**

- (1) This Act shall come into force on 18 June 2011 according to the subsections (2) and (3). At the same time the Foreign Maintenance Act of 19 December 1986 (Federal Law Gazette I,

Federal Law Gazette 1986 II No. 24, issued in Bonn, 27 May 2011

pp. 2563), last amended by the Section 4 subsection (1) of the Act of 17 December 2006 (Federal Law Gazette I, pp. 3171) shall become invalid.

(2) Section 11 subsection (3) shall come into force on the day of issuing this Act.

(3) Sections 17 and 17 shall come into force on 1 January 2013.

---

Constitutional rights of the Federal Council have been reserved.

With this the Act is deemed as issued. It has been issued in the Federal Law Gazette.

Berlin, 23 May 2011

President of Germany

Christian Wulff

Chancellor of Germany

Dr. Angela Merkel

Minister of Justice

S. Leutheusser-Schnarrenberger