

German Statutory Provisions on Coordination and Communication Between Courts

Between German and non-EU Courts

Section 348 (2):

If the requirements for the recognition of a foreign insolvency proceedings are met, or if clarification of whether or not the requirements are satisfied is yet to be established, the insolvency court may cooperate with the foreign insolvency court, especially by providing information relevant to the foreign proceedings.

Between German Courts in Insolvency Proceedings Regarding Groups of Companies:

German Insolvency Code section 269b: Cooperation between the courts

If insolvency proceedings covering the assets of debtors affiliated with the enterprise group are administered by different insolvency courts, the courts shall cooperate and particularly exchange information which may be relevant to the other proceeding. This shall particularly apply to:

1. Decrees of preservation measures,
2. The opening of the proceedings,
3. The appointment of an insolvency administrator,
4. Important procedural orders,
5. The size of the insolvency estate and
6. The submission of insolvency plans and other measures for the termination of the insolvency proceedings.

Explanatory Note:

Section 348 (2) only applies to cooperation between German courts and foreign non-EU courts.

Cooperation between German courts and courts from other EU Member States is covered by Article 42 of the European Insolvency Regulation (recast) of May 20, 2015.

Section 269b only applies to cooperation between German courts because section 3e of the German Insolvency Code defines the members of group of companies as companies whose COMI is in Germany.

The German domestic provisions are not applicable to cases which are covered by the European Insolvency Regulation because the European provisions supersede the German domestic provisions.

A full translation of the German Insolvency Code can be found in [Schulze & Braun's Yearbook on Insolvency and Restructuring](#).