



7th JMTC Legal Assistance Information

HOW TO GET MARRIED IN GERMANY

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

A. HOW TO GET MARRIED IN GERMANY

1. General Procedure

a. **MANDATORY CIVIL WEDDING.** Germany does not recognize common law marriages and requires a mandatory civil wedding ceremony before a registrar of vital statistics (“Standesbeamter”) at the local Office of Vital Statistics (“Standesamt”), located in the Town Hall (“Rathaus”), § 1310 BGB (Bürgerliches Gesetzbuch, German Civil Code). Both spouses must be present at the mandatory civil wedding ceremony, § 1311 BGB. A religious ceremony by a military chaplain or civilian clergyman is optional. However, the religious ceremony can only be held after the civil ceremony, § 67 PStG (Personenstandsgesetz, Personal Status Act). All marriages performed in Germany according to the German law are recognized in the United States.

b. **NOTICE OF IMPENDING MARRIAGE.** If you contemplate getting married in Germany you have to visit the “Standesamt” to give notice of the impending marriage (“Antrag auf Eheschließung” formerly known as “Aufgebot”), § 4 PStG. At that point your fiancé(e) does not have to accompany you if he or she has given a power of attorney to you for the registering process. Call the “Standesamt” to verify opening hours before visiting because most likely the office will be open only for a couple of hours during the week. The clerk should provide you with a detailed list of all documents required in your specific case.

c. **CERTIFICATE OF ELIGIBILITY TO MARRY.** After all necessary documents have been turned in, the paperwork is then sent off to the Higher Regional Court of Nurnberg (“Oberlandesgericht Nurnberg”), in order to obtain an exemption from the production of a certificate of eligibility to marry (“Befreiung vom Ehefähigkeitszeugnis”), § 1309 BGB, § 5a PStG. In exceptional cases you may be allowed to take the paperwork to Bamberg yourself, to speed up the process, otherwise the registrar will receive the packet back in about 2 weeks. In any event, a transfer form, which can be obtained from the registrar, has to be filled out and the court fees have to be paid.

d. FEES. A registrar's fee of approx. Sixty Five Euro needs to be paid at the time you turn all the assembled documents. If the wedding takes place in another Town Hall than the one where you are registering, you will have to pay the registrar's fee twice. Additionally there is a court fee charged by the Higher Regional Court in Bamberg. According to Article 14 of the SOFA Supplementary Agreement the court fees for the exemption from the production of a certificate of eligibility to marry ("Befreiung vom Ehefähigkeitszeugnis") shall not exceed DM 50. The court fee can be paid at the Higher Regional Court, at any German bank or the German Post Office. In the latter cases you have to show the receipt ("Quittung") to the registrar as proof of payment.

e. BEST MAN. It is optional to have one, two or no witnesses present at the mandatory civil ceremony, § 1312 BGB. However, any witness needs to be over the age of 18 and he/she needs to prove his/her identity with either a passport or military I.D. card. If you decide to have witnesses present, you should inform the registrar about the witnesses' names at least eight days before the wedding.

f. TRANSLATOR. Unless both persons to be wed speak German fluently, you will need to bring a translator or interpreter with you to the Town Hall when you give notice of the impending marriage. Preferably, the same translator or interpreter should also translate during the wedding ceremony. You will also have to have a translator or interpreter present when the witness to the marriage is not in command of the German language. Even though your fiancé(e) may speak German fluently, she/he will not be allowed to translate for you or your best man.

2. Necessary Documents

a. SIX-MONTH DEADLINE. It takes time to assemble and to fill out all the necessary documents. Once you have all papers prepared and turned in, then - depending on your special case - it will be only a matter of 2-6 weeks before the wedding bells ring. Upon completion of the registry process you have to get married within the following 6 months, § 6 PStG. If you fail to do so within that time period, e.g. because of a sudden deployment, you have to start the whole process anew and do it all over again. However, how fast you can come up with the required documents depends on you. Most of the non-German documents need to be furnished to the "Standesamt" in a certified copy as well as in a translated version.

b. DOCUMENTS NEEDED. You will need at least the following documents:

(1) PASSPORT. Military I.D. Cards are not always accepted. Passports are preferred. If a soldier does not have a United States passport, the "Standesamt" requires an affidavit stating that the applicant is an American citizen done in front of a notary public either at your local OSJA or the U.S. General Consulate. If your name has been legally changed since the issuance of your birth certificate or passport, you should present an official court decree to this effect.

(2) BIRTH CERTIFICATE. An ORIGINAL birth certificate is needed, certified copies or hospital birth certificates are usually not accepted. The birth certificate should state your parents' names ("Abstammungsurkunde mit Elternangabe"). Birth certificates for any children you may have had with your fiancé(e) prior to the marriage will also have to be presented

(3) STATEMENT OF BEING SINGLE. If you have never been married before, you will need to provide the "Standesamt" with an affidavit stating that you are single. It can be prepared at the Legal

Assistance Office.

(4) MARRIAGE QUESTIONARE. It can only be obtained at the “Standesamt”. It has to be completed and handed back in person to the “Standesamt”. If you need assistance in answering the questions, you may either contact the “Standesamt” or the Legal Assistance Office for help.

(5) POWER OF ATTORNEY TO REGISTER. If your fiancé(e) cannot be present when you register for the impending marriage, then you need to present a written statement indicating that he/she agrees to the initiation of the registry process (Beitrittserklärung). It is done very easily by simply having your fiancé(e) sign the power of attorney form on the marriage questionnaire.

c. MISCELLANEOUS. Other additional documents as needed in your specific case, e.g. if you are divorced, widowed, under 18. The clerk at the “Standesamt” should provide you with a detailed list when you go there to inquire about the papers needed for getting married in Germany.

(1) DIVORCED. Except for divorces from States where an interlocutory (temporary) decree had been issued prior to the issuance of the final decree, the German as well as the Danish authorities require the submission of a Certificate of Finality of Divorce in order to be completely sure that the divorce decree was not set aside by a higher court upon an appeal. Your OSJA will be happy to assist you in obtaining the necessary certificate. Even if you were divorced years ago, the authorities will require such a certificate indicating the final dissolution of marriage, simply because they are extremely thorough and not familiar with your State’s laws. Additionally, a certified copy of the dissolution of marriage is required. All this usually involves a small fee of up to \$15 charged by that State’s court. In addition to all of the above, the marriage certificate from the previous marriage has to be presented as well. In case you have been married more than one time, the previous marriage certificates need to be presented as well. Furthermore, you may be even required to present an affidavit in which you state your marital history, where several years have passed since the granting of your divorce. Finally, all these papers need to be officially translated into German or Danish as applicable. Excerpt translations of the divorce decree are accepted. Summed up, you will need the following.

- (1) Certificate of Finality of Divorce
- (2) Certified copy of the divorce judgment
- (3) Marriage Certificate (of all previous marriages)
- (4) Bi-lingual Affidavit of Marital History
- (5) Official translations of (1) through (3)

(2) WIDOWED. Widowed persons must submit the death certificate of their former spouse. The death certificate must be either the original document or a signed and sealed copy issued by the governmental agency which officially registers deaths. Furthermore, it needs to be translated into German, too.

(3) UNDER 18. If one of the parties to be wed is at least 16 years old but not yet 18 years old, the German age of emancipation, then that party needs to seek approval from the Family Court in order to be wed, § 103 BGB. Consent of the concerned party’s parents is not sufficient.

d. FOREIGN FIANCE. (A foreign fiancé(e) not residing within Germany or another European Union (EU) country has to either apply for a VISA or may enter the country without a VISA (where possible) § 3 AuslG (Ausländergesetz - German Alien Act), § 1 DV AuslG (Durchführungsverordnung zum

Auslandergesetz, Executive Order regarding the Aliens Act). However, in either case he/she will be only allowed to stay in the country on a tourist visa basis for up to 3 months! If the fiancé is going to stay at your place during that time he/she must register at our local town hall immediately and deregister once you are married. Article 13 Bay. MeldeG (Bayerisches Meldegesetz, Bavarian Registration Act), § 11 MRRG (Melderechtsrahmengesetz Federal Framework Registration Act)! Otherwise your fiancé(e) will be in violation of the applicable German registry laws and regulations. Until you are married, your fiancé is not subject to the NATO Status of Forces Agreement. The 3-month time frame will hardly be sufficient to assemble all the documents and to register for the impending marriage. Therefore, it is important that you start the registering process before your fiancé(e) comes into the country. An extension of the Tourist Visa is not possible!

(4.) Local Addresses. The mandatory civil wedding ceremony takes place at the local Office of Vital Statistics (“Standesamt”). It is located in the Town hall (“Rathaus”) situated at the municipal administration (“Gemeindeverwaltung”) or Town Management (Stadtverwaltung). Generally, you can choose between three “Standesämter”

- (1) the one where you are stationed
- (2) the one where you live and
- (3) the one where your fiancé(e) resides

(4) any other “Standesamt” in Germany provided that you contacted one of the above-mentioned “Standesämter” first. Furthermore, this will double your registration fees.

3. German Domestic Relations Law

a. **GENERALLY.** Getting married to a German national may subject you to German family law no matter where in the world the wedding ceremony is performed Article 14 EGBG (Einflührungsgesetz zum Bürgerlichen Gesetzbuch, Introduction to the German Civil Code). It is not the intent of this paper to provide you with a thorough overview of the German domestic relations law but rather to encourage you to contact your Legal Assistance Office if you have any questions concerning your specific case. Moreover, you may also have questions involving other areas of law, e.g. double taxation and the law of succession.

b. **FAMILY NAME.** Under German law you and your German spouse may choose a joint family name, § 1355 BGB. You have the choice between you or your spouse’s maiden name. The spouse whose maiden name did not become the joint family name, may add his/her maiden name to the joint family name, giving that spouse only a double name. If you exercise one of these options the choice you make will be final and, therefore, the name can never be modified or changed again while you are married. Problems always arise, however, with Spanish double names, e.g. Puerto Rico. In such a case it is better not to choose a family name according to German law but to do it according to the laws of your home state.

c. **NAME CHANGE AND ADOPTION.** Upon application by your spouse and yourself any illegitimate children of either spouse, that are living with you and your spouse can be given the new family name without the other spouse incurring the support obligation and without the consent of the biological father unless the child carries his name, § 1618 BGB. Alternatively, you may add the new family name to the child’s existing last name. However, the courts evaluate these issues by weighing whether it is in the best interest of the child. A legal adoption (which is more than a simple name change) is the only way that the adopting parent will assume a support obligation, § 1741 BGB. In such a case generally the consent of both biological parents and the adopting parent is required § 1747 BGB.

d. **PRE-NUPTIAL AGREEMENTS.** In order to be valid and enforceable, prenuptial agreements made in Germany need to be sealed and signed before a German Notary (“Notar”) § 1410 BGB. Unlike in the United States, German Notaries are no legal lay persons but specially trained lawyers and publicly appointed legal officers, § 5 BNotO (Bundesnotarordnu Federal Regulations for Notaries). They have the right to charge a substantial amount of fees for their services, § 140 KostO (Kostenordnun Regulations on Ex-parte Costs).

e. **DIVORCE.** In the hopefully unlikely event that your marriage does not work out, you will be subject to German law if your spouse files for a divorce in Germany, Art. 17 EGBGB. German law not only requires the non-custodial parent (usually the military spouse!), to pay child support (161 2a BGB) but also requires spousal support payments to be made during the time while living separate and apart(136111GB) as we) as after a divorce if ordered so (§ 1569 BGB). The exact figures are based on your net income. Please note that not all of your debts are taken into consideration for calculating your net income, thus the support payments may weigh heavily.

f. **TAXES.** If after the marriage your spouse starts working or continues to work on the German economy, you should caution her/him about applying for a marital status under tax class 3 (“Steuerklasse 3”) but advise her/him to keep the tax class 1 (“Steuerklasse1”), requiring her/him to file taxes separately. Her/his tax class 3 status will take you out of the SOFA protection with regard to income taxes (Art. X SOFA). Although it might seem profitable, your spouse could end up owing taxes instead of getting a tax return because your income, which remains non-taxable under ART. 19 Bouble Taxation Treaty, will have an effect on your spouse’s tax rate. In addition to that, you might be liable for your spouse’s tax debt to the German IRS (“Finanzamt”). After you are married, your spouse will be entitled to legal assistance, too, and may seek advice about her/his specific case before she/he changes her/his tax class.