



## Recognition of court decisions in matrimonial matters (divorce recognition)

### When is a recognition of a divorce necessary?

In accordance with the general principles of constitutional and international law, court judgements and similar sovereign acts only have direct legal effect within the territory of the state in which they were passed or performed. Every state is free to determine whether and under which conditions it will recognize foreign sovereign acts, insofar as it is not bound to do so by treaty. The dissolution of a marriage is thus basically only valid in the state in which it was dissolved. In Germany a marriage dissolved abroad continues to be viewed as still in existence. For example, the man and wife continue to be listed as such in German civil status records and registers of residents until the foreign divorce has been recognized (a "limping marriage"). It is thus not possible to enter into a new marriage in Germany before the divorce has been recognized, as it would be bigamous.

Only once the foreign judgement has been recognized by the department of justice of the relevant German federal state (Landesjustizverwaltung) may the courts throughout Germany consider the marriage to be truly dissolved.

It is the department of justice of the Land where one of the spouses has his/her habitual abode that has jurisdiction. If neither of the parties is resident in Germany, but a new marriage is to be entered into here, the authorities of the Land where the marriage will take place have jurisdiction. If neither of the parties is resident in Germany and the new marriage is to be entered into abroad, the Senate Department for Justice in Berlin has jurisdiction.

### When is a recognition of a divorce unnecessary?

For divorces in EU member states (except divorces in Denmark) if the application for the divorce was filed after 1 March 2001. For these divorces you can order the certificate referred to in Article 39 of the Council Regulation (EC) No. 2201/2003 of 27 November 2003(1) concerning judgments in matrimonial matters from the court which issued the divorce decree.

This certificate together with the divorce decree absolute are EU-wide recognized as sufficient proof of a valid divorce.

### Further information

Recognition is only undertaken upon application. In addition to the parties themselves, all persons who can prove a legal interest in the clarification of the status issue may also apply (e.g. fiancé(e)s, subsequent spouses and heirs).

Applications must be made on an official form, which can be obtained from the registry offices, the Land departments of justice and from the German missions abroad. It can also be downloaded from the website of the Senate Department for Justice in Berlin, which is also a source of further useful information.

If a further marriage is entered into abroad before the dissolution of the first marriage has been recognized by the competent Land department of justice, the second marriage bears the taint of bigamy and is thus voidable. Recognition has retroactive effect as of the entry into force of the foreign order, and so once it is recognized that the first marriage has been dissolved, the second initially bigamous marriage is remedied. The process of recognition of foreign decisions in matrimonial matters is important as it establishes certainty as regards the existence or non-existence of a marriage, and a large number of legal consequences hinge upon this question (paternity for children, the law of succession).

### How can I apply for the recognition?

In order to apply for the recognition of your divorce, please contact the German Mission in your area to arrange an appointment for the recognition of your divorce, stating the details of your case (your name in the passport, dates and places of all marriages, dates and places of all divorces, your telephone number).

If you live in England (excluding England north of Scarborough), Wales or Northern Ireland, please contact the Embassy in London:

[ne@lond.diplo.de](mailto:ne@lond.diplo.de)

If you live in Scotland or Northern England (north of Scarborough), please book contact the Consulate General:

[german.consulate@btconnect.com](mailto:german.consulate@btconnect.com)

### How much does it cost?

At the appointment you will have to pay approximately 25,00 GBP in cash (depending on the exchange rate it may be a little bit less or more) for the certification of your signature and the certification of your photocopies. A further fee of 10,00-310,00 EUR is charged for the decision about the recognition by the competent authority in Germany.

You will be sent a bill from the authority in Germany and you can pay the fees by bank transfer. This fee cannot be paid at the German Mission.

The following documents are required as originals with 2 photocopies each :

- the completed form (completed in German language!)
- valid passport or valid German Personalausweis
- divorce decree absolute
- your birth certificate
- proof of residence (for example council tax bill or utility bill)
- deregistration form ("Abmeldebescheinigung") or registration form ("Meldebescheinigung") from your (last) place of residence in Germany
- translations of foreign documents (usually not required for English documents or "international" documents)
- proof of household income (for last year or last three months)
- birth certificates (full version) for all children
- marriage certificate of the dissolved marriage if possible
- marriage certificate for a new marriage, if you remarried
- further documents regarding the divorce (for instance further divorce decrees or proof of registration of the divorce if that is required in the country where the marriage was dissolved)
- a photocopy of your former husband's / wife's passport
- naturalization certificate for naturalized German nationals or „Staatsangehörigkeitsausweis“ if you have one

Depending on the case more documents may become necessary or can be requested by the Land department of justice at a later date.

### How long does it take?

You can speed up the process by submitting all necessary documents and filling in the form correctly. It might still take some time for the check of the application, you should allow 2 to 6 months for this procedure.

This leaflet provides information for most routine cases presented to the German Missions in the United Kingdom. Due to the complexity of the German name law and the multitude of conceivable case scenarios each individual case may have to be treated differently. This leaflet is therefore meant only as an orientation and neither substitutes legal advice based on a detailed case nor does it foreclose the decision of the registrar, which remains reserved in all cases. Should your case not be covered please contact the German Missions via the above mentioned email-address.