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Imovinske posljedice registriranih partnerstava

Property consequences of registered partnerships

Njemačka

1 Are there different forms of "registered partnerships" in this Member State? Explain the differences between the different forms?

Since the law introducing the right of same-sex persons to marry (*Gesetz zur Einführung des Rechts auf Eheschließung für Personen gleichen Geschlechts*) came into force on 1 October 2017, it is no longer possible to enter into registered partnerships in Germany. Same-sex couples can now enter into marriage in the same way as opposite-sex couples. Partnerships already registered can be converted into marriages. However, there is no obligation to do this; existing registered partnerships can continue in the same form as before.

2 Is there a statutory property regime for registered partnerships in this Member State? What does it provide? To which forms of "registered partnership" does it apply?

Under the Law on Registered Partnerships (*Gesetz über die Eingetragene Lebenspartnerschaft*), same-sex couples were able to enter into registered partnerships in Germany from August 2001 to September 2017 inclusive. The legal consequences of a registered partnership were (and still are) largely modelled on the legal consequences of marriage.

3 How can partners arrange their property regime? What are the formal requirements in this case?

Registered partners are subject to the property regime of community of accrued gains (*Zugewinnngemeinschaft*) unless they agree otherwise by means of a registered partnership contract. The provisions on the statutory property regime for marriages apply mutatis mutandis to registered partnerships (Section 6 of the Law on Registered Partnerships). A different property regime (separation of property - *Gütertrennung* - or community of property - *Gütergemeinschaft*) may be established by means of the registered partnership contract (Section 7 of the Law on Registered Partnerships).

4 Are there restrictions on the freedom to arrange a property regime?

The information above concerning property regimes for marriages apply mutatis mutandis to registered partnerships.

5 What are the legal effects of dissolution or annulment on the property consequences of the registered partnership?

If the registered partners are separated, one of the registered partners can claim maintenance from the other in proportion to the living conditions, earning power and financial circumstances of both registered partners. The provisions on separation maintenance apply mutatis mutandis (Section 12 of the Law on Registered Partnerships). As regards maintenance after the end of the registered partnership, the provisions on post-marital maintenance and pension equalisation (*Versorgungsausgleich*) apply mutatis mutandis (Sections 16 and 20 of the Law on Registered Partnerships).

6 What are the effects of death on the property consequences of the registered partnership?

The statutory right of inheritance of a registered partner is equivalent to that of a spouse (Section 10 of the Law on Registered Partnerships).

7 Which authority has the competence to decide in a case relating to the property consequences of the registered partnership?

A Family Court (*Familiengericht*) has the jurisdiction to hear cases concerning the property consequences of registered partnerships. Such cases constitute registered partnership matters, and the provisions governing divorce proceedings apply.

8 What are the effects of the property consequences of the registered partnership on legal relationships between a partner and a third party?

A person in a registered partnership is typically liable only for his or her own debts and only with his or her own assets, which is also the case under matrimonial property law. This excludes transactions for the reasonable coverage of the family's everyday needs (Section 8(2) of the Law on Registered Partnerships in conjunction with Section 1357 of the Civil Code). The remarks concerning possible restrictions on the right of disposal apply mutatis mutandis.

9 A short description of the procedure for the division, including partition, distribution and liquidation, of the property of the registered partnership in this Member State.

The family home and household goods can be divided during separation (Sections 13 and 14 of the Law on Registered Partnerships) or after dissolution of the registered partnership (Section 17 of the Law on Registered Partnerships in conjunction with Sections 1568a and b of the Civil Code).

10 What is the procedure and documents or information typically required for the purpose of registration of immovable property?

If the partners choose community of property (*Gütergemeinschaft*) as their property regime, they must submit the notarial registered partnership contract to the land registry office and apply for rectification of the land register. In all other cases, that is, if the partners choose a property regime other than community of property, there is no need for land register rectification.

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