



Name of Country and Jurisdiction:

Germany

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to Germany, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Germany for an authority to grant a divorce/ dissolution?



1. What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	All of Germany	<ul style="list-style-type: none"> • Introduced by Reichspersonenstands-gesetz 1875 • Latest Amendment: Reform of Civil and Marriage Law 2002 (as part of the BGB) 	No
Civil union, registered	All of Germany	<ul style="list-style-type: none"> • Civil Partnership Act 2001 • Reform of the Civil Partnership Act 2013 (LPartG) 	Yes (only same-sex couples)

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2. What are the requirements to be able to enter into the above relationships?

Example(s):

- (i) If a geographic link is required:

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	At least one partner must have his habitual residence in Germany.
Civil union	At least one partner must have his habitual residence in Germany.

- (ii) If other substantive eligibility criteria must be satisfied:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Eligibility</p> <p>Both parties to the marriage must be:</p> <ul style="list-style-type: none"> • free to marry (i.e., single, divorced, dissolved or widowed); • at least 16 years of age (and if aged under 18 have the requisite permission from parents/guardians or authority from the family court); • of the opposite sex to one another; and • not related to each other in a way which would prevent their marrying (it is forbidden to marry a related person in a direct line, i.e., siblings, half-siblings, parents, grandparents, children, grandchildren). <p>Notice</p> <ul style="list-style-type: none"> • The couple could only have access to legal marriage before a registrar. • The couple has to file the intended marriage at the registry office, which is located at the residence of one of the intended spouses (for registration of the marriage, one spouse can be granted a power of attorney to represent the other). • Special documents must be submitted for registration at the registry office (i.e., valid identity card, birth certificate, as far as a marriage/civil partnership existed already: a current, certified photocopy of the register of the last marriage/civil partnership with resolution note). <p>Marriage ceremony</p> <ul style="list-style-type: none"> • After the examination of the documents, the registrar sets a date for the marriage. • The marriage is performed on the premises of the Authority. • Both husband and wife have to answer the question clearly and without reservations with “Yes” if they want to enter into marriage with one another. • The couple must confirm its consent in writing.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage (cont.)	<p>Particularity: Binational marriage</p> <ul style="list-style-type: none"> • The marriage must be permitted under the law of the countries of origin of the partners. • The foreign citizen has to supply a certificate of marriageability or optionally apply for an exemption to the authority of the home country or to the consular post, in addition to the general requirements for the marriage. • The certificate of marriageability is valid for a maximum of six months.
Civil union	<p>Eligibility</p> <p>Same-sex partner or partners must be:</p> <ul style="list-style-type: none"> • free to enter a civil partnership (i.e., single, divorced, dissolved or widowed); • at least 18 years of age; • of the same sex; and • not related to each other in a way which would prevent their marriage (it is forbidden to marry a related person in a direct line, i.e., siblings, half-siblings, parents, grandparents, children, grandchildren). <p>Notice</p> <ul style="list-style-type: none"> • The partner must apply for the registration of the civil partnership at the registry office (exception in Bavaria: also notaries may accept the application). • The couple has to apply for the civil partnership at the registry office, which is located at the residence of one of the partners (for registration of the civil partnership, one partner can be granted a power of attorney to represent the other). • Special documents must be submitted for registration at the registry office (i.e., valid identity card, birth certificate, as far as a marriage/civil partnership existed already: a current, certified photocopy of the register of the last marriage/civil partnership with resolution note). <p>Civil partnership ceremony</p> <ul style="list-style-type: none"> • After the examination of the documents, the registrar sets a date for the registration of the civil partnership. • The civil partnership is performed on the premises of the Authority. • Both partners have to answer the question clearly and without reservations with “Yes” if they want to enter into civil partnership with one another. • The partners must confirm their consent in writing. <p>Particularity: Binational civil partnership</p> <ul style="list-style-type: none"> • The registration of a civil partnership is permissible even if there is no comparable permission in the country of the foreign partner. • The foreign citizen has to supply a certificate of being single or optionally apply for an exemption to the authority of the home country or to the consular post, in addition to the general requirements for the civil partnership. • The certificate of being single is valid for a maximum of six months.

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3. If both marriage and civil unions exist:

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

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(a)	In Germany, both opposite sex marriage and same-sex registered partnerships exist. Registered civil partnerships are not available to opposite-sex couples. Marriage is not available to same-sex partners.
(b)	No person may enter into a civil partnership if he/she is already married (either to someone else or to the person with whom they wish to enter into a civil partnership). No person may enter into a marriage if he/she is already in a civil partnership.
(c)	<ul style="list-style-type: none"> • Not applicable.

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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

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Marriage	In Germany, two people are not eligible to enter into a marriage if either of them is already lawfully married or already in a registered civil partnership. A marriage is only available to opposite-sex couples.
Registered civil partnership	Two people are not eligible to register as civil partners if either of them is already a civil partner or lawfully married. A registered civil partnership is only available to same-sex couples.

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5. When a couple comes to Germany, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?

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Marriage	<ul style="list-style-type: none"> • A foreign formed marriage is generally recognized in Germany, if the substantive marriage requirements are met by both partners according to their respective national law at the time of their marriage and if the couple has followed the formalities foreseen at the place of the marriage or the national law of both spouses. • No specific procedure and no responsible authority needs to recognize the marital status. Usually, the question arises in connection with another official act. It must be decided autonomously by the relevant authorities. • However, a certificate can be supplied for a foreign formed marriage at a German registry office or a German consulate, if at least one of the spouses is German.
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Civil union	<ul style="list-style-type: none"> • A foreign formed civil partnership is generally recognized in Germany if the substantive civil partnership requirements are met by both partners according to their respective national law at the time of the civil partnership and if the partners have followed the formalities foreseen at the place of the civil partnership or the national law of both partners. • No specific procedure and no responsible authority needs to recognize the registered partner status. Usually, the question arises in connection with another official act. It must be decided autonomously by the relevant authorities. • Some foreign civil partnership certificates must be authenticated in Germany by the foreign authorities or the German consulate. • However, a certificate can be supplied for a foreign formed civil partnership at the German registry office or German consulate, if at least one of the partners is German.
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6. How can each form of relationship be dissolved? What is the residency requirement or other link to Germany for an authority to grant a divorce/ dissolution?

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Marriage	<p>A marriage can be dissolved if it is disrupted. A disruption will be presumed if the spouses have been living separately for more than a year and the disruption is considered "incurable".</p> <p>If both spouses want to be divorced or there is no willingness to reconcile, a disruption is accepted without any doubt. After three years of separation, a marriage can be divorced even against the will of the other spouse.</p> <p>If the continuation of the marriage represents an unreasonable hardship for one of the spouses, a divorce can be pronounced before the end of one year of separation time and without the consent of both spouses (i.e., abuses, <i>ménage-à-trois</i>).</p> <p>In addition, a marriage may be annulled if:</p> <ul style="list-style-type: none"> • a marriage has been entered into despite existing marriage ban; • one of the spouses were not in a marriageable age; • one of the spouses had no legal capacity to marry; • the spouses made their marriage vows <ul style="list-style-type: none"> ♦ not in simultaneous presence before the registrar or ♦ not personally or ♦ under a condition or a period. <p>Further grounds for annulment:</p> <ul style="list-style-type: none"> • state of unconsciousness, disturbance of mental activity; • ignorance about marriage; • deceit or threat to enter into the marriage; • sham marriage. <p>Finally, the marriage comes to an end on the death of a partner.</p>
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<p>Registered civil partnership</p>	<p>A registered civil partnership can be annulled under the same conditions as a marriage. The partners have to live separately for more than a year and the disruption must be considered “incurable”.</p> <p>If both partners want the annulment or there is no willingness to reconcile, a disruption is accepted without a doubt. After three years of separation, a civil partnership can be annulled even against the will of the other partner.</p> <p>If the continuation of the civil partnership represents an unreasonable hardship for one of the partners, an annulment can be pronounced before the end of one year of separation time and without the consent of both partners (i.e., abuses, <i>ménage-à-trois</i>).</p> <p>A registered civil partnership may also be annulled if:</p> <ul style="list-style-type: none"> • a civil partnership has been entered into despite existing civil partnership ban; • one of the partners were not in an age for civil partnership; • one of the partners had no legal capacity for a civil partnership; • the partners made their civil partnership vows <ul style="list-style-type: none"> ◆ not in simultaneous presence before the registrar or ◆ not personally or ◆ under a condition or a period. <p>Further grounds for annulment:</p> <ul style="list-style-type: none"> • state of unconsciousness, disturbance of mental activity; • ignorance about the civil partnership; • deceit or threat to enter into the civil partnership; • sham civil partnership. <p>The civil partnership comes to an end on the death of a civil partner.</p>
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■ Sources:

- Civil Partnership Act
http://www.gesetze-im-internet.de/englisch_lpartg/index.html
- Civil partnership – Overview:
http://www.justiz.nrw.de/Gerichte_Behoerden/ordentliche_gerichte/Familiengericht/Einzelfahren/Gleichgeschlechtliche_Partnerschaft/index.php
- Equalization of registered civil partnerships:
<http://www.antidiskriminierungsstelle.de/SharedDocs/Aktuelles/DE/2012/FAQ-eingetragene-lebenspartnerschaften-20120820.html>
- Equalization of registered civil partnerships:
<http://www.lsvd.de/politik/oeffnung-der-ehe.html>
- Necessary requirements and documents for the registration of a civil partnership:
<https://www.verwaltungsservice.bayern.de/dokumente/leistung/37330272660>
- Application for the registration of the civil partnership:
<http://www.service-bw.de/zfinder-bw-web/processes.do?vbmid=0&vbid=97322>

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- Process of the registration:
<http://amt24.sachsen.de/ZFinder/verfahren.do?action=showdetail&modul=VB&id=1813!0>
- Recognition of foreign marriages in Germany:
<http://www.auswaertiges-amt.de/DE/Infoservice/FAQ/Eheschliessung/04-Heirat%20Ausl%20-%20Gueltigkeit%20in%20D.html?nn=332718>