



Religare Database

First part: General provisions

First chapter: Entry into force; reserve for the law of a land; definition of statute

Second chapter: Private international law

Third section: Family law

Art. 17

Divorce

(1) Divorce is governed by the law governing the general effects of the marriage at the time the divorce application is served. If a divorce cannot be granted pursuant to the above, the divorce shall be governed by German law, if the spouse requesting the divorce is at this time a German national or was one when the marriage was concluded.

(2) Within this country a divorce may only be decreed by a court.

(3) The balancing of future pensions of husband and wife is governed by the law applicable under subarticle 1 first sentence; it shall only be carried out if accordingly German law is applicable and if such balancing is recognized by the law of one of the countries of which the spouses were nationals at the time when the divorce petition was served. Otherwise the balancing of future pensions of husband and wife shall be carried out pursuant to German law on application of a spouse:

1. if the other spouse has acquired during the subsistence of the marriage an inland future pension right; or
2. if the general effects of the marriage during part of the period of the marriage were governed by a law which provides for a balancing of future pensions of husband and wife,

insofar as carrying it out would not be inconsistent with equity in light of the economic circumstances of both sides also during the time not spent within the country.

Art. 17a

Marital home and household goods

The right to use the marital home that is located in the country and the household goods that are in the country as well as pertaining prohibitions as to trespass, approaching and contact are governed by German substantive law.

Art. 17b

Registered life partnership

(1) The formation of a registered life partnership, its general effects and property regime, as well as its dissolution are governed by the substantive provisions of the country in which the life partnership is registered. Matters related to maintenance and succession shall be governed by the law designated as applicable by the general rules; if under these rules, the life partnership fails to qualify for statutory



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rights to maintenance or succession, the first sentence of this Article shall apply mutatis mutandis. The balancing of future pensions is governed by the law applicable under sentence 1; it shall only be carried out if accordingly German law is applicable and if the law of one of the countries, whose nationals the life partners are at the time when the application for termination of the life partnership is filed, recognizes a balancing of future pensions of life partners. Otherwise, it shall be carried out pursuant to German law on application of a life partner if the other life partner has acquired during the subsistence of the life partnership an inland future pension right insofar as carrying it out would not be inconsistent with equity in light of the economic circumstances of both sides also during the time which was not spent within the country.

(2) Article 10 subarticle 2 and article 17 a shall apply accordingly. If the general effects of the life partnership are governed by the law of another country, personal property that is located in this country shall be governed by § 8 subparagraph 1 of the Registered Partnership Act, and legal transactions that have taken place in this country shall be governed by § 8 subparagraph 2 of the Registered Partnership Act in connection with section 1357 of the Civil Code, insofar as these rules are more favorable to third parties acting in good faith as compared to the foreign law.

(3) If a life partnership between the same persons is registered in different countries, the effects specified in subarticle 1 shall, from the time of its registration on, be determined on the basis of the last life partnership entered into.

(4) The effects of a life partnership registered abroad shall not exceed those arising under the provisions of the German Civil Code and the Registered Partnership Act.