Zeitschrift: Swiss review : the magazine for the Swiss abroad
Herausgeber: Organisation of the Swiss Abroad
Band: 27 (2000)
Heft: 1

Rubrik: Official news

New divorce law

The new Divorce Law came into force on 1 January 2000. The revised provisions on divorce supersede the outdated regulations of 1912.

DIVORCE IS NOW no longer dependent on attributable fault. The new law also contains improvements aimed at ensuring the welfare of children. Marriage and partnership brokering is also legally regulated.

No fault

The key feature of the new law is the introduction of no-fault divorce and equitable treatment of the economic consequences. Hence, rather than being dependent on the party at fault, divorce is now legally anchored in the concept of mutual consent (conventional divorce) or petitioning after a four-year separation period.

Alimony is now based on objective legal criteria (division of labour during the marriage, length of the marriage, age, health, income and assets of the partners, childcare etc.) rather than attributable fault.

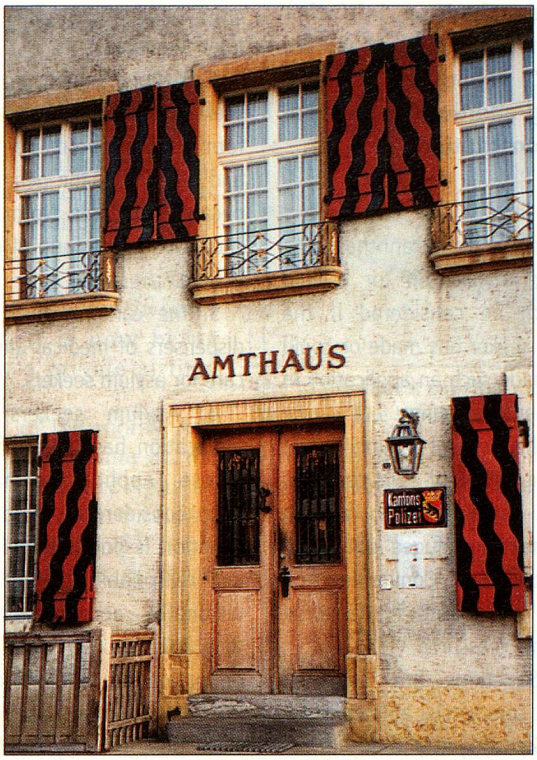

Foto: Robert Nyffeler

Divorces will continue to be settled in court.

Another key innovation is the provision whereby, generally speaking, funds accrued in occupational pension plans during the marriage are divided equally between the partners, irrespective of matrimonial property and irrespective of the grounds for divorce. This provision will substantially improve the economic standing of divorced women.

In the interests of the children

The new provisions aim to optimise the interests of the children. Among other things, shared parental custody is also possible once a marriage is dissolved, provided the parents petition jointly to this effect. This also applies to unmarried couples and can be petitioned for by parents whose marriage was dissolved prior to 1 January 2000.

Furthermore, parents must agree on their share of childcare and the distribution of maintenance costs. In principle, joint parental custody must accord with the interests of the children. Under the new law, the divorce court can in certain cases appoint a procedural counsellor for the children affected by the divorce. Finally, the new law enshrines ➜

Divorce when living abroad

Swiss spouses domiciled abroad can only petition for separation or divorce in Switzerland if it would be impossible or unreasonable to petition in their country of residence. For example, a Swiss court of jurisdiction is applicable if the terms of separation or divorce applied by the foreign judiciary are exceptionally strict or the petitioner has to wait an unreasonable length of time for a decision. In principle the Swiss court of jurisdiction must apply Swiss law to the divorce and/or separation.

Separations or divorces ruled on in the spouses' foreign country of residence are basically recognised in Switzerland provided the rights of the petitioners are guaranteed and the separation or divorce does not contravene our fundamental legal principles.

Whereas Swiss citizens living abroad have recourse to a Swiss court of jurisdiction only in exceptional circumstances, Swiss courts are responsible for processing divorce or separation petitions at the domicile of the petitioned spouse (i.e. if resident in Switzerland). In the interests of one or both spouses, access to the Swiss courts is facilitated by the possibility of claiming jurisdiction at the Swiss domicile of the petitioner (here also only if resident in Switzerland). To prevent the petitioner abusing the system by transferring his or her place of residence, the legislature has laid down additional provisions. Persons may only petition for separation or divorce at their Swiss domicile if they have been resident in Switzerland for at least one year or are a Swiss national. NYF

the fundamental rights of the children to be heard.

Marriage brokering

As a consequence of these amendments to the Divorce Law, the legal principles governing the authentication of personal status and marriage as well other areas of family law, such as children's rights, were also revised. For the first time marriage and partnership brokering is legally regulated under the terms and conditions of the Swiss Code of Obligations.

For professional international brokering, parliament has prescribed an authorisation obligation for which specific bodies are responsible under cantonal law. The Federal Council enacted an implementation order on 1 January 2000 to this effect.

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Against the abuse of asylum rights

The Swiss People's Party has launched an initiative "against the abuse of asylum rights", calling for the following addition to the Federal Constitution:

1. If an asylum seeker enters Switzerland from another safe country, application for asylum will not be considered if the asylum seeker has made or could have made such an application in the other safe country.

2. The Federal Council must draw up a list of safe countries where implementation of the agreement on refugee status and the European Convention on human rights and fundamental freedoms is assured.

3. Sanctions are proposed against commercial airlines which fly to Switzerland and do not co-operate by checking passengers' entry requirements. The law defines the details.

4. Welfare benefits to asylum seekers should be provided uniformly throughout Switzerland and differ from the generally applicable standards. Normally they should be in the form of payment in kind.

5. The cantons must appoint dispensers of medical and dental care for asylum seekers.

6. Asylum seekers whose application has been refused or whose application has not been considered and for whom rejection is possible, permissible and reasonable, as well as pro visionally accepted refugees who have grossly violated their obligation to co-operate, shall, until their departure, receive state benefits only at the level of food and board as well as medical and dental emergency care.

Gainful employment is permitted only within the framework of state employment schemes.

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Current popular initiatives

No new initiatives.

Registration form for Swiss Abroad entitled to vote

(Please write clearly in block letters and send to your embassy or consulate)

Addressee

To the Swiss diplomatic post at

Sender

Surname

First name

Maiden name

Precise address abroad

Date of birth

Place of birth

Marital status since

Place of origin

Canton

Postcode

Surname/First name of father

Surname/First name of mother

On the basis of the Federal Law of December 19, 1975, and the Ordinance of October 16, 1991, on Political Rights for the Swiss Abroad, I wish to exercise my right to vote in federal elections and referendums and to sign popular initiatives and demands for referendums.

As voting municipality I wish to choose:

Postcode/Place

Canton

* because this is my municipality of origin
* because I resided here from 19..... to 19.....
(* Cross out where not applicable)

Language of voting documents:

❑ German ❑ French ❑ Italian

Place/Date

Signature