

Law on the Equality of Men and Women in the Area of Civil Law (June 18, 1957)

Abstract

The changing role of women in postwar society paved the way for gender equality not only in the GDR but in the Federal Republic as well. In 1957, the relevant article in the Basic Law of 1949 was finally given substance through changes to sections of the Civil Code [*Bürgerliches Gesetzbuch* or BGB] that dealt with marriage and family law. These first-time revisions to the BGB granted women the right to employment (even though female employment was still not considered normative), left the wife's premarital assets in her possession, and strengthened her ability to exercise parental authority. However, the family still automatically took the husband's name, and the father retained the final say in disputes over child rearing.

Source

Article 1. Amendment to the Civil Code

The Civil Code is amended as follows:

§ 1355. The marriage and family name is the name of the husband. The wife is entitled, through a declaration to the civil magistrate, to add her maiden name to the name of the husband; the declaration must be publicly notarized.

§ 1356. The wife runs the household on her own responsibility. She is entitled to be gainfully employed, insofar as this is compatible with her duties in the marriage and the family.

Every spouse is obligated to participate in the profession or business of the other spouse, insofar as it is customary under the circumstances in which the spouses are living.

§ 1357. The wife is entitled to enter into business transactions that lie within the scope of her domestic sphere, with binding effect on the husband. The husband is entitled and obligated by the legal business that she transacts within that sphere, unless circumstances give rise to something else; if the husband is unable to pay, the wife is also obligated.

The husband can restrict or exclude the wife's right to transact business on his behalf; if there is insufficient reason for the restriction or exclusion [of this right], the guardianship court must revoke it at the wife's request. The restriction or exclusion applies to third parties only as provided in § 1412.

[...]

§ 1360. Spouses are mutually obligated to support the family appropriately with their work and their wealth. The wife usually fulfills the obligation to contribute to the support of the family through work by running the household; she is obligated to engage in gainful employment only if the husband's capacity for work and the spouses' income is not sufficient to support the family, and if the spouses' circumstances do not allow them to draw on assets. [...]

§ 1363. The spouses live in the property status of a community of goods acquired during marriage, unless they have agreed on something else through a marriage contract.

The assets of the husband and the assets of the wife do not become the common property of the spouses; that also applies to assets that a spouse acquires after marriage. The gain that the spouses achieve in the marriage, however, is balanced out when the community of goods acquired during marriage ends. [...]

§ 1627. Parents shall exercise parental power on their own responsibility and in mutual concord for the welfare of the child. In cases of differences of opinion, they must try to come to an agreement.

§ 1628. If the parents cannot agree, the father decides; he must take the mother's opinion into account.

The guardianship court can transfer to the mother, upon request, the deciding right in individual matters or specific types of affairs, if the father's conduct in a matter of particular importance contradicts the welfare of the child, or if the orderly administration of the child's assets requires it.

If the father persistently violates his obligation to attempt an amicable agreement on differences of opinion and to take the mother's opinion into account in his decisions, the guardianship court can transfer to the mother, upon request, the deciding right when it comes to the child's personal and property law matters, if that accords with the welfare of the child.

§ 1629. The father is entitled to represent the child; the mother represents the child insofar as she exercises parental power alone or the deciding right has been transferred to her according to § 1628, Section 2.3.

The father and the mother cannot represent the child if a guardian is excluded from representing the child in accordance with § 1795; however, one parent can assert the child's rights to support against the other parent if the parents are separated. The guardianship court can strip the father and mother of representation in accordance with § 1796. [...]

§ 1634. A parent who is not entitled to care for the person of the child retains the right to have personal contact with him or her.

The guardianship court can regulate that contact in greater detail. It can exclude it for a certain time or permanently, if that is necessary for the welfare of the child. [...]

Source: *Bundesgesetzblatt*, 1957, vol. 1, pp. 609–25; reprinted in Merith Niehuss and Ulrike Linder, eds., *Besatzungszeit, Bundesrepublik und DDR, 1945–1969*. Deutsche Geschichte in Quellen und Darstellung, edited by Rainer A. Müller, vol. 10. Stuttgart: P. Reclam, 1998, pp. 273–75.

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