



Newsletter No. 25 (EN)

**Notarisation of Documents and Signatures
in Germany and Thailand**

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I. When do I need a notarisation

1. Germany

There are certain cases and transactions where a notarisation of documents or signatures is required, for example for real estate matters, registration issues, special bank transactions or if the parties agreed to do so. Typical documents requiring notarisation in Germany are:

- Real estate matters: If buying or selling real estate (land and/or buildings and apartments), notarization is generally required, Sec. 311b Para. 1 of the German Civil Code (**BGB**). Note that German law distinguishes between the sales contract (stipulating the legal duty to transfer the property and pay the purchase price) and the actual transfer of ownership as a stand-alone contract, which in turn requires a conveyance and entry in the land register pursuant to Sec. 873 Para. 1 and Sec. 925 Para. 1 Cl. 1 BGB. Sec. 311b Para. 1 BGB only requires the notarisation of the sales contract. However, mostly the transfer of ownership is also done by the notary public as one of the competent authorities within the meaning of Sec. 925 Para. 1 Cl. 2 BGB. If a German notary public is asked to do so, he will implement these two legal transactions (sale plus transfer of ownership) in one contract, the fee for which is 20/10 of the matter. However, the sales contract alone does not have to be notarized by a German notary public. This can just as well be done by a foreign notary public. In many cases, a Swiss notary public is chosen for this purpose, because his fee is negotiable.

The notarisation of the conveyance is charged with a 5/10 fee according to the Federal Act on Court and Notary Fees (Gerichts- und Notarkostengesetz, GNotKG).

- Marriage contract and same-sex partnership contracts according to Sec. 1410 BGB; Sec. 7 Cl. 2 LPartG.
- Declaration of adoption according to Sec. 1750 Para. 1 Cl. 2 and 1762 Para. 3 BGB.
- Contract of inheritance according to Sec. 2276 Para. 1 Cl. 1 BGB.
- Set up of a limited company (private or public) according to Sec. 2 Para. 1 Cl. 1 GmbHG or Sec. 23 Para. 1 Cl. 1 AktG)

2. Thailand

Although there are no notary publics in Thailand, notarisation is required or might be needful in some cases, such as:

- If the authority requires a foreign signer to sign documents in Thailand such as the power of attorney for any transaction at the land office (in most cases, the officer will request to provide the entry stamp visa page to prove that the principal visited Thailand on the date of the documents). Therefore, if the foreigner signs the documents from abroad, they will need notarization from their country;
- Real estate matters: Since the sales agreement concerning property is made before the responsible government officer, notarisation of the sales agreement is not

required. However, if buying a condominium in Thailand as a foreigner with the assistance of a lawyer, notarisation of the power of attorney is required. The officer may also ask for notarisation of the passport copy.

- In the case of a registration of a trademark in Thailand by a foreigner, the power of attorney must be notarised.
- For projects by Government Authorities or State Enterprises the notarisation of documents showing the status of the foreign company is required.
- Registration of a branch office or representative office under the Foreign Business Act. All company registration documents and the power of attorney must be notarised.
- Notarisation of contracts might be necessary if the contracting parties agreed to do so.

II. Who is responsible for notarisation and certification?

1. Germany

Authorised persons for the notarisation of documents, transactions and for certifications in Germany are notary publics.

Furthermore, there are authorities with notary power, for example embassies according to Sec. 2 of the Consular Act (KonsG). According to Sec. 10 of the Consular Act, a notarisation provided by an embassy is equal to that of a notary public.

2. Thailand

The Law Society of Thailand provides the services of notarisation and certification through specialised attorneys. They are specially certificated and called “Notarial Service Attorneys”. In general, if the certification of the notarization is required, the Ministry of

Foreign Affairs will certify the notarisation (which is called “legalization”) by confirming the status of “Notarial Services Attorney” with the Lawyers Council.

Be aware that Thailand is not a signatory to the Hague Convention abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention). Therefore, foreigners using notarial services in Thailand will probably have to further legalise or authenticate their notarial document at the Thai Ministry of Foreign Affairs (Legalisation Department) or at the embassy of the country to which the document is to be presented. In the same way, documents issued abroad will be legalised at the Thai Ministry of Foreign Affairs before they can be used with the Thai authorities.

III. Legal Regulations

1. Germany

a) Legal bases

Notarisation and the amount of notary fees are regulated in Germany by the Federal Notarisation Act (Beurkundungsgesetz, BeurkG), the Federal Notary Ordinance (Bundesnotarordnung, BNotO) and the Federal Act on Court and Notary Fees (Gerichts- und Notarkostengesetz, GNotKG).

b) What is the “value of matter” mentioned in the German law?

Fees for notarisation will be levied according to Sec. 19 GNotKG. Invoices not complying with the regulations set forth in Sec. 19 Para. 1 and 2 are invalid, c.f. Sec. 19 Para. 4 GNotKG.

Under the provisions of the Federal Act on Court and Notary Fees, the fees depend on the value of the matter. According to Sec. 3 Para. 1 GNotKG, the amount of the notary's fees is exclusively based on the significance and value of the authenticated statement.

The notary's workload or the difficulty of the case do not increase the value of matter. If a property will be sold for e.g. 100.000 EUR, the value of the matter is also 100.000 EUR.

The amount the value of the matter is then derived from Sec. 34 GNotKG. This provision describes the structure of the fee tables in Appendix 2 to Sec. 34 Para. 3 GNotKG (please compare the copy of Appendix 2 below).

The minimum fee is EUR 15 (Sec. 34 Para. 5 GNotKG).

As already shown above, the economic value of the matter is often expressed in form of a monetary amount, namely in the declaration to be notarised itself.

However, if the economic value of a matter is not assessable, the notary may estimate the value (Sec. 36 GNotKG).

c) Additional costs

According to No. 32000 ff. of Appendix 1 of the GNotKG, additional expenses can be charged. This includes for example documentary costs (EUR 0.50 per page for the first 50

pages, thereafter EUR 0.15) and additional actual expenses (e.g. for travel and telephone).

According to No. 32014 of Appendix 1 of the GNotKG, VAT has to be added.

Fees for legalizations by the Embassies are regulated in Sec. 25 f. of the Consular Act.

d) Can the fees be reduced in Germany?

The Notary is not allowed to reduce or raise the notary legal fees (Sec. 17 BNotO). Thus each and every notary in Germany charges the same fees (whereas fees of notarisation in Switzerland are negotiable).

2. Thailand

There is no regulation by law concerning notary publics in Thailand and fees are not fixed as in Germany. Therefore each "Notarial Service Attorney" in Thailand may charge as agreed.

*We hope that the information provided in this newsletter was helpful for you.
If you have any further questions please do not hesitate to contact us.*

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Appendix 2 to Sec. 34 Para. 3 Federal Act on Court and Notary Fees (GNotKG)

Value of matters up to ... €	Fee ... €	Value of matters up to ... €	Fee ... €	Value of matters up to ... €	Fee ... €
500	15.00	200,000	435.00	1,550,000	2,615.00
1,000	19.00	230,000	485.00	1,600,000	2,695.00
1,500	23.00	260,000	535.00	1,650,000	2,775.00
2,000	27.00	290,000	585.00	1,700,000	2,855.00
3,000	33.00	320,000	635.00	1,750,000	2,935.00
4,000	39.00	350,000	685.00	1,800,000	3,015.00
5,000	45.00	380,000	735.00	1,850,000	3,095.00
6,000	51.00	410,000	785.00	1,900,000	3,175.00
7,000	57.00	440,000	835.00	1,950,000	3,255.00
8,000	63.00	470,000	885.00	2,000,000	3,335.00
9,000	69.00	500,000	935.00	2,050,000	3,415.00
10,000	75.00	550,000	1,015.00	2,100,000	3,495.00
13,000	83.00	600,000	1,095.00	2,150,000	3,575.00
16,000	91.00	650,000	1,175.00	2,200,000	3,655.00
19,000	99.00	700,000	1,255.00	2,250,000	3,735.00
22,000	107.00	750,000	1,335.00	2,300,000	3,815.00
25,000	115.00	800,000	1,415.00	2,350,000	3,895.00
30,000	125.00	850,000	1,495.00	2,400,000	3,975.00
35,000	135.00	900,000	1,575.00	2,450,000	4,055.00
40,000	145.00	950,000	1,655.00	2,500,000	4,135.00
45,000	155.00	1,000,000	1,735.00	2,550,000	4,215.00
50,000	165.00	1,050,000	1,815.00	2,600,000	4,295.00
65,000	192.00	1,100,000	1,895.00	2,650,000	4,375.00
80,000	219.00	1,150,000	1,975.00	2,700,000	4,455.00
95,000	246.00	1,200,000	2,055.00	2,750,000	4,535.00
110,000	273.00	1,250,000	2,135.00	2,800,000	4,615.00
125,000	300.00	1,300,000	2,215.00	2,850,000	4,695.00
140,000	327.00	1,350,000	2,295.00	2,900,000	4,775.00
155,000	354.00	1,400,000	2,375.00	2,950,000	4,855.00
170,000	381.00	1,450,000	2,455.00	3,000,000	4,935.00
185,000	408.00	1,500,000	2,535.00		