



REGISTRATION OF COMMERCIAL ENTERPRISES AND OTHER LEGAL ENTITIES IN GERMANY

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TYPES OF REGISTERS

■ Commercial Register

- Section A (HRA) *Since 10th May 1897*
 - Individual enterprises (e.K.)
 - General Partnerships (oHG)
 - Limited Partnerships (KG)
 - European Economic Interest Group (EEIG / EWIV)
 - Governmental Authorities running a business

TYPES OF REGISTERS

- Section B (HRB) *Since 10th May 1897*
 - Public Limited Company (AG)
 - Private Limited Company (GmbH)
 - Limited Company with one or more general partners (KGaA)
 - Mutual Insurance Society (VAG)

TYPES OF REGISTERS



- Register of Cooperative Societies (GnR)
Since 1st May 1889
- Register of Civil Associations (VR)
Since 18th August 1896
 - only: Non-profit Associations
 - not registered: Profit-making Associations (e.g. GEMA), Civil Partnerships, Foundations
- Register of Professional Partnerships (PR) *Since 25th July 1994*
(lawyers, doctors, journalists etc.)

What is registered?

- Name of entity; place of registered office (+ branch offices); object of company
- Subscribed capital (only for companies); subscribed liability (cooperative societies); foundation capital (mutual insurance associations)
- Representation
 - General rule of representation
 - Persons acting for the entity (names, residence, date of birth)
+ their personal power of representation, if divergent from the general rule

What is registered?



- Employees with power of Procura (personal data + type of procura)
- Type of enterprise or Legal Entity
- Dates of Articles of Association and Bylaws and amendments
(only: companies (=HRB), EEIG and public corporations (HRA), cooperative societies (GnR), civil associations (VR))

What is registered?

- Other important legal aspects: Mergers; splitting and reorganization; control and profit-transfer contracts; conditional and authorized capital; dissolution; decisions of insolvency; proceedings; squeeze-out
- Only KG (HRA):
Personal data + liability of limited partners
- Only EEIG:
Personal data of members
- Date(s) of first (or subsequent) entry

What is not registered?

- No Registration, but only Filing of Documents
 - List of shareholders of private companies
 - Supervisory Board
 - Auditors
 - Annual Returns

Organization



- Who is in charge of registration:
Local Courts – Register Department but usually concentration to a central Local Court for several Local Courts e.g.
Bavaria: 72 Local Courts – 24 Commercial Registers Saxony: 30 Local Courts – 3 Commercial Registers

Register of Civil Associations is less concentrated,
Register of Professional Partnerships is more concentrated
North-Rhine-Westphalia: 1 Court (Essen)
Hesse: 1 Court

What is examined before registration?

- Overall legal check of statutory requirements
 - Formal requirements (e.g.):
 - Application by right person; certification by Notary Public; resolution adopted by properly summoned meeting with necessary majority, etc.
 - Substantive requirements (e.g.):
 - Admissible name, capital, type of representation, etc.

What is examined before registration?

■ Form of check

- Mainly honour basis connected with penal prosecution, if statements in application are wrong
- Exception: Actual checks:
 - E.g. Permits, if necessary, value of contributions in kind

State of Development of Electronic Register



- Organization of Courts is a matter of the 16 Länder; accordingly state of development may differ.
- RegisSTAR
 - 7 Länder (Bavaria, Hesse, Hamburg, North-Rhine-Westphalia, Saarland, Saxony, Saxony-Anhalt)
- Aureg
 - Brandenburg, Berlin

State of Development of Electronic Register

■ RegisSTAR

- Fully-fledged electronic register for all types of registers with all internal functions as well as online service including chronological and abridged actual version, basic data including address, historical register (scanned paper register from 1970 until start of electronic register); list of representatives, officers, procurists etc.
- Bavaria:
<https://handelsregister.justizregister.bayern.de>

Projects in Work



- Common German portal for all Länder:
www.justizregister.de
- Electronic filing
- Electronic archives with online function – featuring:
 - Separate easy access for main documents (list of shareholders of GmbH; valid Bylaws; annual returns)
 - Link of entry in register to related documents and vice versa

Future Organization

- Immediate application of RegisSTAR by all Länder ("ready for work") but ...
- Plans to allow Länder to transfer commercial register to other authorities (e.g. Chambers of Commerce) and ...
- 4 Länder (Baden-Württemberg, Lower Saxony, Rhineland-Palatinate and Hamburg) are considering transfer to Chambers.

