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Assertion of maintenance during the separation phase

Heruntergeladen am 08.07.2025

<https://fimportal.de/xzufi-services/209009595/L100039>

Modul	Sachverhalt
Leistungsschlüssel	99046016002000, 99046016002000
Leistungsbezeichnung I	Assertion of maintenance during the separation phase
Leistungsbezeichnung II	Assertion of maintenance during the separation phase
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Rheinland-Pfalz
Freigabestatus Katalog	fachlich freigegeben (gold)
Freigabestatus Bibliothek	fachlich freigegeben (silber)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Gerichtliche Leistungen (046)
Verrichtungskennung	Festsetzung (002)
SDG-Informationsbereich	Leben in einer binationalen Partnerschaft, auch einer gleichgeschlechtlichen Partnerschaft (Eheschließung, zivile/eingetragene Partnerschaft, Trennung, Scheidung, Güterrecht, Rechte von Lebenspartnern)

Modul	Sachverhalt
Lagen Portalverbund	Scheidung (1020400)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	25.01.2019
Fachlich freigegeben durch	JM
Handlungsgrundlage	https://www.gesetze-im-internet.de/bgb/_1361.html https://www.gesetze-im-internet.de/famfg/_231.html https://www.gesetze-im-internet.de/bgb/_1361.html https://www.gesetze-im-internet.de/famfg/_231.html
Teaser	
Volltext	<p>If you are separated as spouses, one spouse can demand reasonable maintenance from the other even before the divorce. The same applies if you live in a civil partnership. If no mutual agreement can be reached on separation maintenance for the needy partner, this can be applied for in the family court.</p> <p>Before you decide to apply to the court, you should give the person obliged to pay maintenance the opportunity to pay the maintenance owed voluntarily.</p> <p>When calculating appropriate maintenance, the living conditions during the marriage or civil partnership are decisive (living, income and financial circumstances).</p> <p>To calculate the amount of maintenance, the net income relevant to maintenance - less certain items (e.g. child maintenance) - must be determined. A so-called employment bonus is also taken into account to compensate for the additional professional expenses of the person liable to pay maintenance. The amount calculated is divided in half (half-sharing principle). However, the person liable to pay maintenance must retain a certain minimum amount (deductible).</p> <p>Those living separately are obliged to provide each other with information about their income. In the event of a refusal, the relevant information can be claimed by way of an action for information.</p>

Modul

Sachverhalt

In any case, you should seek advice from a lawyer before submitting an application. The details of maintenance law are complex, so expert advice is highly recommended.

Erforderliche Unterlagen

Voraussetzungen

- The spouses or partners are permanently separated.
- The claimant is in need. The income and payment obligations of the partner requesting maintenance and the obligation to work are decisive.
- The defendant is capable of paying.

Kosten

Depending on the amount in dispute, which is determined by the court, court and lawyer's fees are incurred.

Verfahrensablauf

You can assert your claim for separation maintenance in court with a maintenance application. The application must be submitted by a lawyer. The court will serve the application on the respondent. They are given the opportunity to comment.

The proceedings are then conducted in accordance with the provisions of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction, which largely refers to the provisions of the Code of Civil Procedure. In principle, everyone is obliged to present and, if necessary, prove the facts in their favor.

The family court judge sets a maintenance amount based on the living conditions of the spouses or registered partners.

In urgent cases, it is also possible to apply for an interim order.

If you are not in a position to quantify the exact amount of maintenance claimed - for example, because you do not have any information about the defendant's income and assets - you can also initially request that information be provided.

The judge can require the parties involved to provide

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	<p>information about their income and assets. If the parties involved do not comply with this obligation, the court can obtain information independently (e.g. from employers, the employment agency or insurance companies).</p> <p>Note: Separation maintenance is not the same as post-marital maintenance (after divorce). Both must be claimed separately in court.</p>
Bearbeitungsdauer	
Frist	The decision on separation maintenance only applies to the period of separation (before the divorce). You must assert any claim for post-marital maintenance on your own.
weiterführende Informationen	
Hinweise	Make your claim in good time, as you are only entitled to retroactive maintenance under certain conditions.
Rechtsbehelf	
Kurztext	If you are separated as spouses, one spouse can demand reasonable maintenance from the other even before the divorce.
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	Assertion of maintenance during the separation phase, Geltendmachung von Unterhalt während der Trennungsphase