



lic. iur. HSG, Karin Hochl
Attorney-at-law

Schaub Hochl Rechtsanwälte,
Theaterstrasse 29, 8400 Winterthur
Tel: 052 213 35 35
hochl@schaubhochl.ch
www.schaubhochl.ch

August 2022

Change of Name

Introduction

In Switzerland the general principle of immutability of the name applies. This means that a person's first and last name, once acquired, cannot be changed. However, a change of name procedure can be initiated in exceptional cases and at the request of the person concerned.

Legal regulation

The name is regarded as part of one's personality and therefore protected by art. 29 CC. It is also anchored in the right to respect for private and family life in art. 13 Swiss Federal Constitution and internationally in art. 8 European Convention on Human Rights (ECHR).

The law relating to the use and change of name is regulated in art. 30 Swiss

Civil Code (CC): If there is a good cause, a change of name can be requested from the government of the canton of residence. This is also possible for foreign nationals residing in Switzerland. A name change is intended to eliminate the inconvenience associated with the previous name and is at the discretion of the competent authority.

Requirements for a name change

Until 2013 the person concerned had to present important cause (*wichtige Gründe*) to legally change their name. Since the revision of the law in 2013, only good cause (*achtenswerte Gründe*) is required, which tends to make the name change easier.

Good cause is when the name has a negative impact or if there is inconvenience that prevents the individual from moving forward. Understandable, comprehensible and convincing reasons must be demonstrated to the competent authority. The simple intention to change the name is not sufficient. Whether the requirements for a name change are met is judged by the competent authority at its discretion, i.e., according to law and equity (art. 4 CC). For this purpose, all essential circumstances of the specific individual case must be taken into account.

When assessing good cause, a distinction is made between objective and subjective reasons, which must directly and verifiably lead to the inconvenience (Swiss Federal Supreme Court 5A_730/2017 of 22.01.2018). Objective reasons are understood to be ridiculous, ugly or offensive names that people may

make fun of. Subjective disadvantages are those that are only associated with the person concerned, provided they are objectively comprehensible and of a certain intensity (ruling of the OGer ZH of June 29, 2016, NT160001).

The chances of success for a name change increase if the person concerned already uses the desired name in everyday life and at work and is already known by this name in his or her environment.

Name changes of children

The name change of children is not linked to the existence of objective and subjective disadvantages.

In principle, the child of married parents receives the surname that the parents determined as their common family name at the time of marriage (art 270 para. 1 CC). The child of unmarried parents receives the name of the parent who is entitled to parental custody. If the unmarried parents have joint custody, they decide which of their single surnames their children should have (art. 270a para. 1 CC).

For children incapable of judgement (under the age of 12), the application can be submitted by the parent with custody, whereby a possible conflict of interests must be taken into account. In the case of joint custody, both parents must agree to the application.

From the age of 12, however, a child can submit an application for a change of name independently or must at least agree to it.

For a change of name, it is sufficient to prove that there is a need for the child's name to be the same as that of the holder of parental custody. The unity of names between children and parents expresses the subjective feeling of wanting to appear as a family to the outside world. However, this does not alter the fact that careful assessment of the circumstances of the individual case must be made, since the name change may cause further separation from the other parent and impair the child's interests (BGE 140 III 577, E. 3.3.4).

Competence and procedure

The government of the canton of residence is responsible for the procedure (art. 30 para. 1 CC). The applicant, who may also be a foreign person residing in Switzerland, must submit an application with all the necessary documents. The competent authority then examines whether there is a good cause for a change. The applicant bears the responsibility for sufficiently describing and proving the objective and subjective reasons for an inconvenience.

The costs of a name change procedure are governed by cantonal provisions. If a decision on the application has not yet been made, but a rejection of the application is in prospect, it may be possible to withdraw the application without incurring costs.

When the change of name is approved, the new name is entered in the civil status registry and the person concerned is officially entitled to use the new name. Official documents (passport, identity

card, civil status card, etc.) can be ordered with the new name.

Once the name has been changed, the old name can only be adopted again by means of a new name change procedure. Once again, there must be a good cause for this.

Distinction from name correction

If a name is not changed, but only an incorrect entry in the civil status registry is corrected, it is a name correction and not a name change. In these cases, an entry already exists in the civil registry which, however, turns out to be incorrect in retrospect. The incorrect entry may be false, inaccurate or incomplete as a result of an oversight or misleading information or documents. According to the case law of the Swiss Federal Supreme Court, the entries on a person and the documents issued on the basis of them should all contain the same spelling (BGE 83 I 39).

In the case of obvious errors, the correction is made *ex officio* by the competent authority. If the correction is disputed, the matter must be brought before the courts (art. 42 CC).

Distinction from the change of name in the context of marriage and divorce

Further grounds for change arise in the case of marriage and divorce as well as in the case of the death of a spouse. In the case of marriage, each spouse generally retains their own name. However, the spouses also have the option of declaring to the civil registrar that they wish to use one of their single names

(*Ledigname*) as their family name. This leads to a change of name for the spouse who adopts the surname of the other as family name (art. 160 CC). In Switzerland this is a very common practice.

Divorce does not result in a change of the surname. The spouse who changed their name at the time of marriage retains it after the divorce. However, they may declare to the civil registrar at any time that they wish to use their single name again (art. 119 CC).

If one spouse dies, the other may, if he or she changed the name at the time of marriage, declare to the registrar at any time that he or she wishes to return to using their single name again (art. 30a CC).

Double-barrelled surnames

The revision of the law on names in 2013 abolished the use of a double-barrelled surnames (without hyphenation). Since then, couples can keep their own name or adopt the name of their spouse, but double-barrelled surnames are no longer permitted. For example, couples are no longer allowed to call each other "Rosenstolz Mut". However, double-barrelled surnames with hyphenation (*Allianzname*) such as "Rosenstolz-Mut", may be used, but they are not official names and cannot be entered in the civil registry under current law. However, the National Council's Legal Commission has now proposed to reintroduce the double-barrelled surnames. The reintroduction of the double-barrelled names is intended to give spouses the opportunity to keep their own name, but at the same

time to express the connection to the other person with the second name. However, the reintroduction has not yet been approved.

Change of name of transgender people

The change of first name is particularly relevant for people with transgender identity. In these cases, the aim is to adapt the name to the actual gender, regardless of whether a physical gender reassignment has taken place or is planned.

With the new law that came into force on 1 January 2022, people with transgender identity will be able to change their gender and first name "quickly and without bureaucracy". It only requires a declaration at the civil registry office that the person is firmly convinced that they do not belong to the gender entered in the civil registry (art. 30b para. 1 CC) and would like to adopt a new first name (art. 30b para. 2 CC).

Do you have questions about changing your name? We will gladly advise you and guide you through the process. Please do not hesitate to contact us.