



SEPARATION AND DIVORCE INFO SHEET FOR WOMEN

**IN CASE OF MARRIAGE
IN CASE OF REGISTERED PARTNERSHIP
IN CASE OF COHABITATION**

'I want the violence to stop and I want to be respected.'

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I WANT TO LEAVE HIM. WHAT PROCEDURE DO I HAVE TO FOLLOW?

You can initiate proceedings for protection of the marital union and request a separation ([Proceedings for protection of the marital union form](#)) at the local district court in your place of domicile (www.gerichte-zh.ch). You can initiate the proceedings yourself or through a lawyer. If possible, take the following documents with you for the court hearing or the initial meeting with your lawyer:

- Documents relating to your financial situation (last two tax returns and tax invoices, salary statements, receipts for regular expenditure, bank account statements 3 to 6 months)
- Notes/records on the history of the marriage (important data and incidents such as use of violence by your husband, medical records, documents of criminal procedures, violence protection measures)

HOW MUCH WILL PROCEEDINGS FOR PROTECTION OF THE MARITAL UNION COST AND WHO PAYS THE LAWYER?

If you hardly have any money, you or your lawyer can submit a request for free of charge legal aid ([request](#)). If the application is approved the court costs and lawyers' fees will initially be met by the state. If at a later date your financial situation improves, the court has 10 years during which it can request that you repay the court costs and lawyers' fees ([Fact sheet about free legal aid](#)).

If you are in a position to meet the lawyers' fees yourself, you can contact an advice centre or lawyer to find out about the costs of proceedings for protection of the marital union.

WHAT ARRANGEMENTS CAN I RESOLVE UNDER THE PROCEEDINGS FOR PROTECTION OF THE MARITAL UNION?

The judge in the proceedings for protection of the marital union will rule on the following points, amongst others:

- Allocation of the matrimonial home
- Awarding custody of the children
- Visitation rights of the other parent
- Child maintenance contributions
- Division of the matrimonial property

I AM WORRIED THAT THE SITUATION WILL ESCALATE IF HE HEARS ABOUT THE SEPARATION!

If your husband is violent towards you or your children or threatens to be violent, the police can declare special protective measures in an acute emergency situation ([GSG brochure](#)). The police can order the expulsion of your husband from the house or flat, a ban on setting foot in a certain district or a ban on contacting you and your children for 14 days. You have the single opportunity to prolong these protective measures within 8 days for another 3 months (www.ist.zh.ch). Victim support centres assist you with and advise you on this request for free and in a confidential manner. These three months usually allow for sufficient time to obtain a judicial separation. If you fear that your husband will continue to threaten you even after the protective measures have been suspended, you can submit a request for a contact ban or exclusion order (protection of legal personality according to the Swiss Civil Code 28 b) at the district court. This can also be requested simultaneously with the application for a separation. Please ask a lawyer or us about this option. Women's shelters offer comprehensive protection if you fear that your husband is not abiding by the restraining orders (www.frauenhaus-schweiz.ch).

AND WHAT HAPPENS IF THE SEPARATION HAS TO HAPPEN VERY QUICKLY?

You can apply for provisional measures to be granted in the proceedings for protection of the marital union. To do this, you must provide proof of the violent actions and the urgency of the application. The court will then preliminarily – but quickly – settle the same points as in the proceedings for protection of the marital union. The requirements for provisional measures are very high. Please get in touch with the victim support centres or a lawyer if you decide to take this step.

WHO GETS THE HOUSE?

It is the person that is more dependent on it – usually this is the parent who will be mainly fulfilling the parenting duties after the separation. Make an application for the following if you wish to remain in the marital home:

- Leaving date of the partner (from a few days up to two months). If you have grounds for believing that your husband will not wish to leave the home voluntarily, ask for the power to evict him through the mayor's office.
- Return of all full sets of keys so that your husband cannot enter the house without your consent. Change the locks of the flat if you are uncertain whether you have been given all the keys or not and if you still feel threatened.

WHOM WILL THE CHILDREN LIVE WITH?

The parent who has previously been primarily responsible for the personal care of the children and who can also guarantee that this care will continue. The judge will personally ascertain the best place for the children to be cared for (welfare of the children). Brothers and sisters will normally remain together. Children aged 6 and over can be asked for their preference at the proceedings.

HOW OFTEN WILL MY HUSBAND BE ALLOWED TO SEE THE CHILDREN?

The parent who has not been granted custody is entitled to have personal contact with the children. You can reach an agreement with your husband and have this arrangement approved by the judge. If you are unable to reach an agreement, the judge will normally rule as follows for children of kindergarten age: two Saturdays or Sundays per month. For children of school age: two weekends a month as well as two weeks' holiday per year. Make sure that set times are agreed for the handover and that arrangements are in place for public holidays such as Easter, Whitsun and Christmas.

If your husband has also threatened or was physically abusive to your children or when it comes to violent (escalating) situations repeatedly at the child handovers, you can demand accompanied visitation rights or visitation deputyship. Cancellation of the visitation rights in their entirety will only be granted if the children are at serious risk.

WHAT ARE WE SUPPOSED TO LIVE ON?

It can take weeks or months before a legally enforceable decision has been reached on the level of maintenance costs. To be on the safe side, register with the social welfare services. You are entitled to financial support from the state. If you have a joint account or a joint credit card with your husband, then

- if possible immediately take out the amount of cash needed for three months from the bank account or credit card if these are in his name and you do not have enough savings yourself
- immediately block the access rights of your husband to a bank account or credit card that are in your name

At the proceedings for protection of the marital union the requirements of both households will be ascertained and deducted from the corresponding income. Out of these the

maintenance contributions for you and your children will be calculated. You will need to see social services if your expenditure cannot be fully covered by your income and the maintenance contributions. Depending on your situation you may also be entitled to unemployment benefit.

Child maintenance contributions can be made in advance by the state in the amount of the maintenance contributions agreed under the proceedings for protection of the marital union ruling up to a maximum of CHF 940 per child. Unfortunately, this does not apply to the wife's maintenance costs. Your local district debt collection office will collect the money from the party liable to pay maintenance on your behalf.

WILL THE SEPARATION AFFECT MY RESIDENCE STATUS?

Quite often the right to stay in Switzerland is linked to living together with the husband (residence status B). There are differences between citizens of EU countries, which principally have better prerequisites of staying and residing in Switzerland. For non-EU citizens the possibility of an extension of their stay after a separation exists if the marriage in Switzerland lasted over three years and a successful integration took place. You can, however, argue stating compelling personal reasons for an extension of a residence permit, especially if you were a victim of matrimonial violence or if social reintegration in your country of origin proves to be seriously jeopardised. Keep evidence such as doctor's certificates, reports from women's shelters/advice centres or police orders in a safe place. The right of residency should not be a reason to tolerate domestic violence. We advise you in these matters for free and in a confidential manner.

WHAT HAPPENS AT THE HEARING FOR PROTECTION OF THE MARITAL UNION?

Contact an advice centre, lawyer or the court to find out about what happens at a hearing for protection of the marital union. If you have gone to the court without a solicitor:

- do not sign any settlement if you are uncertain, or
- sign it but make it subject to a 10-day cancellation proviso. Give the settlement agreement to a lawyer to examine it and cancel it if necessary within the time limit.

Children cannot be taken to the hearing for protection of the marital union. Set aside half a day and arrange for the childcare in such a way that if the proceedings take longer you are not placed under any stress.

Ask the court in good time to provide an interpreter for the hearing if German is not your mother tongue.

WHAT CAN I DO IF I DISAGREE WITH A RULING?

If you do not agree with the protection of the marital union ruling, you must request the reasons for the ruling or submit an appeal within 10 days (see legal appeal at the end of the ruling). Once these 10 days have elapsed, the ruling becomes legally binding and you can only request an amendment if there is a significant change in the situation.

If you return to live with your husband, the ruling is automatically rendered null and void after approximately 3 to 5 weeks.

WOULDN'T IT BE BETTER FOR ME TO GET AN IMMEDIATE DIVORCE?

A divorce is possible at any moment if both parties are in agreement and confirm the intention of divorce before the local district court. Experience shows that this type of divorce agreement is quite often repealed. Thus the initiation of proceedings for protection of the marital union is the quicker way to obtain clarification in regards to maintenance, flat allocation and custody of the children. A divorce against the wishes of the spouse can only be obtained following the expiry of the stipulated separation period of two years. In the event of an irretrievable breakdown in the marriage, a unilateral petition for divorce can be filed; this is, however, very difficult to achieve. If the reasons for the divorce are disputed, this procedure can be a very long-drawn-out process. Contact an advice centre, a lawyer or the court for information.

WHAT CAN I DO IF I WAS FORCED INTO MARRIAGE?

The free choice of the marital partner is a right that applies to all people living in Switzerland. Swiss law interdicts marriages that were solemnised under forced conditions, irrespective of whether these marriages were entered into abroad or in Switzerland. Get in touch via www.zwangsheirat.ch or with us. You will receive free advice and support in several languages.

WHAT PROCEDURE DO I HAVE TO FOLLOW TO DISSOLVE A REGISTERED PARTNERSHIP?

Same-sex partners can register their partnership and thereby form a cohabitation with mutual rights and duties similar to a marriage. If your cohabitee is violent or threatens you, the police can issue protection measures according to the Law on Protection against Violence for your protection and you can petition the court for a dissolution of the partnership ([GSG brochure](#)). The local district court for your place of domicile is responsible for this. During the proceedings the same points

as in the proceedings for protection of the marital union will be settled. If you cannot agree about the dissolution with your partner, the mandatory separation period before a dissolution of a registered partnership is one year (two years for a marriage). ([Leaflet dissolution of registered partnership](#))

WE ARE LIVING IN COHABITATION AND I WOULD LIKE TO SEPARATE

Cohabitation is not a legally binding form of lifestyle. It is important to know that in the case of the separation of a cohabitation, various judicial processes take place: in case of mutual children, the process in regards to awarding custody of the children and arrangements of visitation rights takes place at the Child and Adult Protection Authority (KESB) ([kesb Zürich](#)). The assessment of the maintenance for the children is executed by the district court for your place of domicile ([BG Kanton Zürich](#)). The parent that is mainly responsible for the child care has no right to be paid maintenance in case of a separation of the cohabitation. It depends on the rental agreement and the co-operation of your landlord and ex-partner to establish who will remain in the flat. As the separation of cohabitees is legally complex, it is of advantage to get advice from a counselling centre or a lawyer. If your cohabitee is violent toward you or your children or threatens to be violent, you can employ the protection measures according to the Law on Protection against Violence. ([GSG brochure](#))

IMPORTANT ADDRESSES:

Initiation of proceedings for protection of the marital union

www.gerichte-zh.ch

Proceedings for protection of the marital union form

Medical certificates in emergencies:

www.permanence.ch

Tel. 044 215 44 44

Lawyers / lawyer's association:

www.zav.ch

www.anwaltskollektiv.ch

www.djs-jds.ch

Protection:

Police emergency number: 117

Women's shelters: www.frauenhaus-schweiz.ch

Victim support centres:

www.bif-frauenberatung.ch

www.frauennottelefon.ch

www.frauenberatung.ch

Support for children

www.kokon-zh.ch

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