

Buyer's Guide To Purchasing German Properties

Foreword

Buying German property is a straight-forward and secure procedure that has security of title, comparable to the UK system. However the process is different and alien to most British and Irish buyers so for convenience we have prepared this buyer's guide. If you have any further queries then please contact us for clarification.

Glossary

Handling mandate

The legally binding contract to buy. The buyer's copy can be further witnessed before a notary public or consular officer for signing power of attorney to a German attorney to complete the sale on the buyer's behalf.

Deed of purchase

The final sale contract, which is subject to the law of Germany.

German notar

The notar is an official neutral that is licensed by the German state. He/she is instructed by the seller to oversee the sale and land registration. The notar will ensure that the seller is legally entitled to sell and that the buyer is registered as the new owner.

Attorney

The German attorney that may be charged with the power of attorney by the buyer, to sign the deed of purchase in Dresden.

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Advance legal and tax fee

This is exactly 10% of the purchase price and is paid additionally to the full purchase price. This is to enable the German notar to automatically pay the buyer's legal, disbursement and tax fees to ensure a swift and easy conclusion to the legal process.

Disbursements

These are fees generated by the legal procedure undertaken upon the buyer's behalf by the notar to secure good title and legal registration of the property.

Sale date

This is the date when we receive the deposit and the signed handling mandate. The sale becomes legally binding and the property is withdrawn from sale.

Completion date

This is the deadline for the buyer to pay the balance of the price and any other sums due to the seller or the notary, which are outstanding under the special conditions and handling mandate. The completion date is exactly four weeks after the ***sale date***.

Notary public (UK)

A notary public is a specific kind of legal practitioner in the UK who specializes in international law and the witnessing of the signing of contracts to be implemented outside of the UK.

Contacts

Notar

Notare Michael Becker & Dr. Peter Horn de la Fontaine
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Germany
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The legal process

When you find a property on our website that interests you please contact us for the property legal pack. The legal pack is specific for each property, containing the **handling mandate** (preliminary sale contract) and a copy of the land registry. The **handling mandate** is presented in both German and English and has been prepared by a German **notar**. The **notar** is not a solicitor for the seller but rather an official neutral that is licensed by the German state. The **notar** will already have ensured that the seller is entitled to sell the property by searching the Grundbuch (land registry) before issuing the **handling mandate**. Please note that all of the properties on our website are being sold freehold and without encumbrance unless clearly stated in the legal pack.

If you wish to proceed to purchase, please telephone us on: (44) 01234 852600
One of our staff will take your details and issue you with two identical contracts by special delivery. The contracts are legally binding. You must immediately sign one and return it to us with a deposit of 10% of purchase price in **GBP Sterling**. The deposit can be paid in a variety of ways, for example: electronic transfer, cheque, Paypal and debit card. Please note that the property will still be marketed until receipt of cleared funds.

Upon receipt of the deposit and the signed contract the sale becomes legally binding and we will stop accepting offers on the property. This date becomes the **sale date** and we will notify the **notar** to prepare the final **deed of purchase**. There are only two more steps before the property is yours.

1. Paying in full.
2. Signing the **deed of purchase**.

1. Paying in full

The buyer must pay for the property within 4 weeks of the **sale date**.

- 1) Deposit the remaining 90% of the purchase price into the fiduciary account created by the **notar**.
- 2) Deposit a further 10% of the purchase price into the fiduciary account created by the **notar** to cover all of the buyer's legal costs, taxes and disbursements in advance. (Please see **legal costs** on page 5.)

All payments are held in a trust account by the **notar** and are not released to the seller until the entry of the buyer's name into the land registry is legally assured.

Please note: Despite agreeing a purchase price in GBP Sterling, the sale will actually take place in Euros. Therefore when the **handling mandate** is issued we will insert the latest exchange rate. The rate will now be fixed for the contract and is non negotiable at a later stage. After payment of the deposit in GBP Sterling the remaining balance will be calculated in Euros. All balancing payments must be made in Euros, please see page 5 for an example.

2. Signing the deed of purchase

German law requires that the buyer and seller, *or their legal representatives*, must attend an appointment with the German *notar* to sign the *deed of purchase*. The buyer has two options as to how they will achieve this.

1. The buyer can attend the signing in Dresden in person.
2. The buyer can give power of attorney to a German attorney to sign upon his/her behalf.

Either way the buyer must notify us strictly within two weeks of the *sale date* as to which method they would prefer. If the buyer would like to attend the signing in person then they must be available to do this in Dresden within four weeks of the *sale date* or before the *completion date*.

For the convenience of the buyer, the *notar* can arrange for a German lawyer to sign the deed on their behalf at a cost of 150.00 Euros. This means that the buyer does not have to travel to Germany just for the signing. In order to arrange this, the buyer must sign their copy of the handling mandate before:

- a) A UK Notary Public. The document must then be legalised by the Foreign and Commonwealth Office with a power of apostille. (*The notary public can arrange this for you. Most UK towns/cities have a choice of notary publics, prices vary. Please note that you might have to allow a few weeks for this process.*)
- b) A consular officer at the German Embassy in London. (*Contact details on page 2.*)
- c) Any German notar in Germany.

The handling mandate must then be returned to the German *notar* administering the sale strictly before the *completion date*.

When the *notar* has received all of the payments and legal documents then he can set a date for the signing of the *deed of purchase*. After the signing the *notar* will make a priority notice application to the land registry called an “*Auflassungsvormerkung*”, to register the legal interest of the buyer, until their name can be fully inserted into the land registry. Upon registration of the *Auflassungsvormerkung*, the legal rights of the buyer are assured and the property can be handed over as can the purchase funds to the seller.

Upon completion the *notar* will provide to the buyer, detailed accounts of all of the legal fees, taxes and disbursements paid on the buyer’s behalf. All overpayment from the pre-paid 10% will be refunded to the buyer.

You take possession of the property upon the first day of the new month after you paid the balance. For example if the balance was paid in full by the 31st May then you take possession upon the 1st of June. If the balance was paid on the 1st June then you take possession on the 1st July.

Legal Costs

Here is an indication of the legal costs, which are typically 7%:

- a) 3.5 % of purchase price for German property transfer tax. “Grunderwerbssteuer”.
- b) Approx 1.5% of purchase price for the notary’s fees. (The notary’s fees are governed by law.) The notar will invoice the buyer directly.
- c) Various disbursement fees for the land registry and search certificates from local authorities. These certificates vary from around 5 Euros to approximately 70 Euros. No more than 4 certificates are usually required.
- d) £100 fee for the German solicitor to represent the buyer in signing the deed of purchase in Germany, if required.
- e) The cost of the fiduciary account.

Example of sale procedure and payments

1st May

Mr Smith wants more information about a villa for sale for £50,000. He telephones us and we email him a copy of the legal pack.

2nd May

Mr Smith decides that he wants to purchase the villa. He telephones us and gives us his details like name and address etc.. We insert his details into the **handling mandate** and send him two copies via special delivery. That day’s Euro to Sterling exchange rate of 1.47 is inserted into the contract. (In effect the purchase price is 73,500 Euros.)

3rd May

Mr Smith signs one copy and posts it back to us. He also arranges for his bank to send a chaps transfer to us the next day to the sum of £5,000. (10% deposit)

4th May

We receive the signed **handling mandate** and the deposit so the 4th May becomes the **Sale date**. We immediately withdraw the villa from sale and instruct the German **notar** in Dresden to prepare the **deed of purchase**.

18th May

Mr Smith telephones us on the notification deadline. He tells us that he has chosen to sign his copy of the **handling mandate** to authorise the **German attorney** to complete the signing on his behalf.

21st May

Mr Smith visits the German Embassy in London and signs his contract before a consular officer. He then immediately posts his contract to the German **notar**. (Please note that Mr Smith could have achieved this through visiting any notary public in the UK but it could take a few weeks for the required apostille or legalisation.)

23rd May

The *notar* receives the notarised *handling mandate*. The *Notar* is now only waiting for the buyer to pay in full before he can arrange an appointment with the *German attorney* and the seller to attend his office to sign the *deed of purchase*.

28th May

Mr Smith sends the balance of payment via international transfer to the notar. The balancing payment is entirely in Euros using the exchange rate in the *handling mandate* of 1.47.

The purchase price of £50,000 is 73,500 Euros.

The 10% deposit of £5,000 is 7,350 Euros.

This leaves an outstanding balance of 66,150 Euros + another 10% of total purchase price for *advance legal and tax fees*. (7,350Euros)

So the balance Mr Smith transfers is **73,500 Euros**

31st May

The balancing payment of 73,500 Euros clears into the trust account of the *notar*. The *notar* arranges an appointment with the *German attorney* and the seller.

4th June

The *German attorney* meets the *notar* and the seller. The attorney signs the *deed of purchase* on behalf of Mr Smith.

1st July

Mr Smith receives possession of the property and also from this date legal responsibility. Had he paid the balance a little earlier he would have enabled the signing of the *deed of purchase* to take place before the end of May. He would then have received possession upon the 1st of June.

30th July

Approximately 8 weeks after the signing of the *deed of purchase* the *notar* will have finished the legal formalities and will be able to give a detailed account to Mr Smith of the *disbursements* and taxes. Then the *notar* will refund any overpayment of the *advance legal and tax fees*. Please note that this is dependent upon the regional land registries as they all have different timescales for registration.

And now the small print

This information guide does not form part of the contract or the German purchase deed. It is intended as a guide to the German conveyancing process. No warranties are given or representations made as to its accuracy. Even though you do not require an attorney to purchase property in Germany it could be advisable to obtain independent legal advice. Buyers should be aware that when they sign the handling mandate and pay their 10% deposit they are entering into a legal commitment to the purchase. Failure to complete the buyer's obligations within the prescribed deadlines could forfeit the 10% deposit and leave the buyer open to legal action from the seller for compensation.