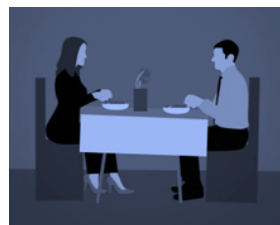


In addition to the above, jurisdiction is vested in the courts of the MS:

- before which a defendant enters an appearance,
- where immovable property of one or both registered partners are located, for discussing that immovable property,
- which is sufficiently connected to the case if proceedings cannot reasonably be brought or conducted or would be impossible in a third state with which the case is closely connected.

Applicable law. Partners **may choose**, as applicable, the law of the following State:

- where both of them or one of them is habitually resident,
- whose nationality both of them or one of them has at the time the agreement is concluded,
- under whose law the registered partnership was created.



If the partners **did not choose applicable law**, applicable law will usually be either the law of the State under whose law the registered partnership was created or the law of other State which attaches property consequences to the institution of the registered partnership may apply.

The law governing the registered partnership property applies regardless of whether it is the law of a MS or a non-MS and where the assets are located.

Recognition and enforcement. A judgment rendered in proceedings in one MS is **automatically recognised** in other MSs.

Whereas the court may never review a judgment from another MS as to its substance, it may **refuse its recognition** if it:

- is contrary to public policy,
- was given in the default of appearance and was not served in a timely manner to enable defence,
- is irreconcilable with an earlier judgment.

Provided that it is declared enforceable, the judgment can be **enforced** in any other MS. The declaration of enforceability is granted simply upon production of the necessary documents and can be revoked at the appeal stage on the **same grounds** as for refusing recognition.

Get to know your cross-border family property!
Learn which court decides and what law applies!
Find out how to use your judgment in other EU Member States!



PERSONALIZED SOLUTION IN EUROPEAN FAMILY AND SUCCESSION LAW

European Union adopted three regulations which deal particularly with property issues arising within a cross-border family: matrimonial property, registered partnership property and succession. As a response to increasing family mobility in EU, they are intended to help couples and families as a whole to manage their property relations. Rather than providing for the same substantive legal regime in the EU, they preserve the national family and succession law particularities and prescribe unified rules on jurisdiction, applicable law and recognition and enforcement. These regulations will apply to cross-border family property issues when they have to manage it on a daily basis, divide it in case of divorce or resolution of the registered partnership and in case of death of a family member.

Help us gather information by filling-in the PSEFS online anonymous questionnaire for cross-border couples at:

<http://survey2.cs.unicam.it/limesurvey/index.php/584535?lang=en>

Project Partners



Univerza v Ljubljani
Universitas Labacensis



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di Alta Formazione Giuridica
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Personalized Solution in European Family and Succession Law
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PERSONALIZED SOLUTION
IN EUROPEAN FAMILY AND
SUCCESSION LAW

Family Property in European Union

READ AND FIND OUT ABOUT
NEW FEATURES OF EU LAW!

SUCCESSION
MATRIMONIAL PROPERTY
REGISTERED PARTNERSHIP PROPERTY

Succession Regulation

Applies to succession to the **estates of deceased persons** who die on or after 17 August 2015, in the proceedings before the authority of a MS, except for Denmark, Ireland and the United Kingdom. It is intended to ensure that cross-border successions are decided by single authority and subjected to single applicable law.

Jurisdiction. According to the main rule, the courts of the MS of the **deceased's habitual residence** at the time of death have jurisdiction. However, concerned parties may **agree that the court competent** for the proceedings is the court of the MS whose law the deceased chose as applicable for his succession.

Additionally, the Succession Regulation prescribes that the courts in the following MSs are competent under certain conditions:

- the MS of the court before which the parties enter the appearance,
- the MS in which assets of the estate are located,
- the MS which has sufficient connection with the succession,
- the MS where the habitual residence of any person who may make a succession declaration is located,
- the MS where the habitual residence of the parties or the assets are located or other appropriate court.



Applicable law. According to the general rule, law applicable to the succession as a whole is the law of the State of the **deceased's habitual residence** at the time of death. However, a person may **choose the law** of the State of his or her **nationality** at the time of death as applicable. Under certain conditions, law of the State with which the **deceased was manifestly more closely related to** may apply. Law of any State may be applicable, not just MSs.

Recognition and enforcement. A judgment rendered in the succession proceedings in one MS is **automatically recognised** in other MSs. Whereas the court may never review a judgment from another MS as to its substance, it may refuse its recognition if it:

- is contrary to public policy,
- was given in the default of appearance and was not served in a timely manner to enable defence,
- is irreconcilable with an earlier judgment.

Provided that it is declared enforceable, the judgment can be **enforced** in any other MS. The declaration of enforceability is granted simply upon production of the necessary documents and can be revoked at the appeal stage on the **same grounds** as for refusing recognition.

European Certificate of Succession. The ECS is a document issued by the succession authority and its content is prescribed by the Succession Regulation. The ECS is intended for heirs, legatees and executors of wills or administrators of the estate from one MS who need to invoke their status or exercise their rights in another MS. Once it is issued, the ECS is **automatically recognised** in all MSs. The use of ECS is not mandatory.

Matrimonial Property Regulation

It deals with property regimes in cross-border marriages as of 29 January 2019, before a competent authority in a MS participating in this Regulation.

There are 18 participating MSs at this moment: Sweden, Belgium, Greece, Croatia, Slovenia, Spain, France, Portugal, Italy, Malta, Luxembourg, Germany, Czechia, the Netherlands, Austria, Bulgaria, Finland and Cyprus. Other MSs may join at any time. In fact, Estonia notified its intention to join.

Jurisdiction. Some heads of jurisdiction in matters of matrimonial property are accessory to other proceedings. Thus, if a court of a MS is seised in matters of the succession of a spouse based on the Succession Regulation, the courts of that MS have jurisdiction to rule on related matters of the matrimonial property regime. Likewise, if a court of a MS is seised to rule on an application for divorce, legal separation or marriage annulment based

on Regulation (EC) No 2201/2003 (Brussels II bis), that court has jurisdiction to rule on related matters of the matrimonial property regime.

In certain other situations, the parties may **agree on jurisdiction** of the courts of the MS whose law is applicable or the courts of the MS of the conclusion of the marriage or other MS courts. If no such agreement is made, jurisdiction for the matrimonial property regime lies with the courts of the MS:

- in whose territory the spouses are habitually resident at the time the court is seised,
- in whose territory the spouses were last habitually resident, if one of them still resides there at the time the court is seised,
- in whose territory the respondent is habitually resident at the time the court is seised,
- of the spouses' common nationality at the time the court is seised.

In addition to the above, jurisdiction is vested in the courts of the MS:

- before which a defendant enters an appearance,
- where immovable property of one or both spouses are located, for discussing that property,
- which is sufficiently connected to the case if proceedings cannot reasonably be brought or conducted or would be impossible in a third state with which the case is closely connected.

Applicable law. Spouses may **choose**, as applicable, the law of the State where both of them or one of them is **habitually resident** or law of the State whose **nationality** both of them or one of them has at the time the agreement is concluded. In the **absence of choice**, the law of the following State may apply *inter alia*:

- of the spouses' first common habitual residence after the conclusion of the marriage,
- of the spouses' common nationality at the time of the conclusion of the marriage,
- with which the spouses jointly have the closest connection at the time of the conclusion of the marriage.

The governing law applies regardless of whether it is the law of a MS or a non-MS and where the assets are located.

Recognition and enforcement. Judgment rendered in the proceedings in one MS is **automatically recognised** in other MSs. Whereas the court may never review a judgment from another MS as to its substance, it may **refuse its recognition** if it:

- is contrary to public policy,
- was given in the default of appearance and was not served in a timely manner to enable defence,
- is irreconcilable with an earlier judgment.

Provided that it is declared enforceable, the judgment can be **enforced** in any other MS. The declaration of enforceability is granted simply upon production of the necessary documents and can be revoked at the appeal stage on the **same grounds** as for refusing recognition.



Registered Partnership Property Regulation

It deals with matters of the property consequences of registered partnerships as of 29 January 2019, before an authority in a MS participating in this Regulation.

There are 18 participating MSs at this moment: Sweden, Belgium, Greece, Croatia, Slovenia, Spain, France, Portugal, Italy, Malta, Luxembourg, Germany, Czechia, the Netherlands, Austria, Bulgaria, Finland and Cyprus. Other MSs may join at any time. In fact, Estonia notified its intention to join.

Jurisdiction. Some heads of jurisdiction in matters of property consequences of registered partnerships are accessory to other proceedings. Thus, if a court of a MS is seised in matters of the **succession** of a registered partner under the Succession Regulation, the courts of that MS have jurisdiction to rule on related matters of the property consequences of the registered partnership. Likewise, if a

court of a MS is seised to rule on the **dissolution or annulment of a registered partnership**, the courts of that MS have jurisdiction to rule on the related property consequences of the registered partnership, if the partners so agree.

In certain other situations, the parties may **agree on jurisdiction** of the courts of the MS whose law is applicable or the courts of the MS under whose law the registered partnership was created. Jurisdiction for the property consequences of a registered partnership lies with courts of the MS:

- in whose territory the partners are habitually resident at the time the court is seised,
- in whose territory the partners were last habitually resident, insofar as one of them still resides there at the time the court is seised,
- in whose territory the respondent is habitually resident at the time the court is seised,
- of the partners' common nationality at the time the court is seised,
- under whose law the registered partnership was created.