

GolnEU plus

*Integration, migration, transnational relationship. Governing inheritance
statutes after the entry into force of EU Succession Regulation*

QUESTIONNAIRE

The questionnaire is part of a research project co-financed by the EU. You are receiving it because of your work as a practical lawyer and / or academic. It is not necessary to answer all the questions: you can choose the ones you consider most interesting.

We do not ask you to provide us with statistical data or simple yes / no answers, but to explain why you believe that a particular solution prevails in your legal system (we refer not only to provisions of positive law, but also to jurisprudence, as well as to the notarial practice or forensic and legal mentality) and, above all, to indicate practical cases (not just published sentences, but also ongoing judicial proceedings or extrajudicial cases that have been submitted to you for advice, or that you believe will be brought to the attention of the operators of law in the near future, given the developments in progress).

You can follow the path traced by our questions, or decide to provide us with other relevant information.

You can decide to remain anonymous, or give your consent to publish your name on the Project website. In any case, the privacy of those involved will be protected.

We thank you for your time and kind cooperation.

1. In your legal system is it possible to stipulate premarital agreements with effects on the patrimonial regime of the family and / or in view of a crisis of the family relationship?
If yes, with which rules and within what limits? If the answer is no, would a foreign prenuptial agreement with these characteristics be recognizable in your legal system? What impact could premarital contracts have on matters of social importance in your country?



2. In your country there is a case law on the recognition of the typically Islamic premarital contract called mahr? What importance can public order take with reference to the mahr?

3. In the event that a marriage between persons of the same sex contracted in a Member State of the European Union should be converted into a civil union by virtue of the provisions of the laws of another Member State, would you consider that such a family relationship should be considered to be within the scope of application of EU Regulation 1103 of 2016 or in that of EU Regulation 1104 of 2016?

4. Many countries provide for various degrees of registration and relevance for de facto cohabitation, even if neither a cohabitation contract nor a civil partnership have been stipulated. Would you consider that such cohabitation hypotheses could fall within the scope of application of EU Regulation 1104 of 2016?

5. If your country does not adhere to the EU 1103 regulations of 2016 and 1104 of 2016, which rules govern the profiles of private international law relating to a prenuptial agreement between spouses or between civil partnerships or to a similar agreement between cohabitants? Could you compare the possible advantages and / or disadvantages of the application of internal private international law with those of the hypothetical application of EU Regulations 1103 of 2016 and 1104 of 2016?



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6. What patrimonial regime could possibly be recognized in your legal system to a polygamous marriage or to a similar relationship of cohabitation?

7. In your country is it possible to divorce or otherwise dissolve a legally relevant family relationship without the intervention of the judge? If yes, with which rules and within what limits? If the answer is no, could foreign cases of dissolution of family relationships with these characteristics be recognized in your legal system?

8. In your country is there a case law on the recognition of the typically Islamic out-of-court divorce called « talaq »? What importance can public order with reference to « talaq » take?

9. What is or should be the role of the patrimonial regime of the family in protecting the weak members in the family relationships crisis? What are, or could be, its interrelations with the discipline of divorce allowance?

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10. Are there legally relevant hypotheses in your country concerning the dissolution of family relationships characterized by some religious dimension? Can, for example, the dissolution of a marriage and / or divorce be pronounced by a religious authority and / or in accordance with a religious right? If yes, with which rules and within what limits? For example, only for a prevalent religion or even for other religions? If the answer is no, could the foreign cases of dissolution of family relationships characterized by such a religious dimension be recognized in your legal system?

11. Could you compare, from the point of view of family law and succession, the position in which your country's minority religions and those of foreign origin are more connected with migration?

12. In your country, can arbitration or other alternative dispute resolution methods be used when it comes to the termination of family relationships and related financial matters? And in other areas of family law and succession? If yes, with which rules and within what limits? If the answer is no, could the consequences of resorting to alternative methods of dispute resolution, in these areas, which took place abroad be recognized in your legal system?

13. Do the alternative methods of dispute resolution mentioned in the answer to the previous question, or even some of them, have a religious dimension? Are they for example administered by religious authorities or in accordance with a religious right? If yes, with which rules and within what limits? For example, only for a prevalent religion or even for other religions? If the answer is no, could the consequences of resorting to alternative methods of dispute resolution, characterized by such a religious dimension, which took place abroad be recognized in your legal



system?

14. In your country there is a case law on the subject of inheritances involving cryptocurrencies? Are the cryptocurrencies regulated in your country? In more general terms there is in your country case law relating to cryptocurrencies? How are cryptocurrencies qualified in your country: as money, as assets, as assets or as financial instruments? In your country, can the institutions of the will and / or of the legate be used to regulate a succession concerning access credentials (ie username and password)?

15. Are life insurance policies considered as mortis causa contracts in your country? In your country, are unit-linked and index-linked policies considered life insurance or financial instruments? Has there been any particularly controversial judicial precedent in your country in this regard?

16. Is blockchain technology used in your country? How? Is it subject to regulation? Is there a case law on blockchain in your country? Can the blockchain have an impact in terms of wills or contracts relating to family and inheritance in your country?



17. In what circumstances the competent judge pursuant to art. 4 of the EU 650 Regulation of 2012 may decline jurisdiction in favor of another considered judge, pursuant to art. 6 letter a of the same Regulation, more suitable to deal with the case? Based on what parameters?

18. How can the quality of heir for the purposes of articles 66 and 69 of the EU 650 Regulation of 2012 effectively be attested? How can the authority issuing the European succession certificate verify the information provided and the declarations issued by the applicant?

19. How do you acquire information on the content of an applicable foreign law? What difficulties do you encounter? If you are a professional, could you tell us if you already had the opportunity to inform your clients that they have taken the risk of facing problems related to the validity and / or effectiveness of an agreement on the patrimonial regime of the family, due to of the applicability of a foreign law?

20. Regardless of all the previous specific questions, could you tell us about any further problems you have encountered in the field of transnational successions?



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