



Moving to Another Country in the EU?

This is what you need to know about the legal implications for your family

As European citizens we all enjoy freedom of movement within the EU.

Millions of us make use of this freedom and come to live in another country. As a consequence, there are many international couples who do not live in their country of origin and/or do not share the same nationality. Is this a problem for them?

No, and Yes.

Mobility within the EU is encouraged, and it helps many citizens to lead exactly the life, in exactly the place, and with exactly the partner, they like. But in the absence of a uniform legal regime for families within the EU, international couples still face a number of problems. The problems may also depend on whether these couples are married, registered as partners or in an informal relationship.

We are planning on moving: what should we consider?

Are you (planning on) moving to a different country? Or have you already moved? Then you should get well informed about the legal consequences of this move. In this information sheet we will show you why.

When you move as a couple across borders, or one of you moves in order to join the other, the applicable legal regime may change and you may be taken by surprise as you are faced with obligations you had never anticipated or lose rights you had always taken for granted, which may affect you and your children or other heirs.

Here are some examples:

Example no 1: Andrzej, living in Austria, and Ewa, still living in Poland, married in Poland. After six months of a long distance relationship Ewa managed to find employment in Austria and joined Andrzej.

Years later, Ewa, who had always relied on the Polish statutory regime of community property, is very surprised to hear that, according to Austrian law as the law of the parties' first common habitual residence, Andrzej is the sole owner of the Austrian family home he bought in his own name and is now considering to sell.



Example no 2: Anton and Lara, two Slovenian nationals, had been cohabiting informally in Ljubljana for more than three years. The couple later moved to Austria on a permanent basis.

Tragically, Lara has a car accident and dies intestate. Under Slovenian law, Anton would have the same inheritance rights as a spouse. According to Austrian succession law Anton does not receive any share in the estate.

Example no 3: Years ago, Jan, a Czech national, met Franz, a German national, in Berlin, where they entered into a registered partnership. Both had always been planning to move to the Czech Republic sometime in the future.

Jan is surprised to hear that they are living under the German regime of community of accrued gains, which means that Jan would have to pay to Franz, in the event of dissolution of the partnership, half of the value of a flourishing software company Jan founded after the registration of the partnership, which would not be the case under Czech law.

Couples frequently find themselves also faced with a patchwork of two or three different applicable laws. And the approaches taken by the various laws involved are often incompatible with each other. This leads to unnecessary complexity and costs.

Finally, due to the differences in national legal systems, there are often incentives for parties to 'rush to court' in order to secure proceedings in a particular country whose courts will apply a particular law, thus reducing chances for reconciliation.

Avoid problems later: make decisions now

To a large extent, you can avoid the problems just described by way of early choice of court and applicable law under existing EU rules. And the applicable law may allow you to make further choices and to find a solution that is optimal for your needs. However, many couples are still not aware of these options which can be of particular importance in case of separation, divorce or a partner's death. Are you?

Make sure you decide yourself, whatever the future will hold.

Make use of the options afforded to you under EU law.

Think about making a contract concerning which country's law applies to your relationship and concerning the country where proceedings may be initiated.

Think also about designating, in a will, the law you want to apply to your succession.

See further - www.empoweringeuropeanfamilies.eu.

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Prepare yourself: **take independent legal advice**

If you are interested in concluding an agreement, we strongly recommend that you take independent legal advice.

When considering what you want to achieve, please take into account that:

- **It may be possible to choose between laws of two or more different countries.** National laws vary and therefore the choice you make on the laws that apply to your situation has important implications. For example: the law of one country may automatically lead to your property being considered as community property, while the law of another country will consider it separately owned property.
- **It is generally recommended that you choose the law of only one country** to deal with all the legal aspects of your relationship because a combination of different laws may produce inconsistent results and increase the costs of litigation.
- **The chosen law may allow you to make a range of further choices.** For example: you may agree to exclude particular property from a regime of community property.
- Even if you do make choices, in the absence of a unified approach in Europe, **a court dealing with your dispute may disregard your choice in a number of countries.** However, your choice may still influence how the court deals with your case.
- **You may wish to agree that you will settle all future disputes amicably by way of mediation,** to avoid going to court.

What to bring to your meeting with a legal adviser?

At the meeting with the legal adviser, you may be asked to provide the following information, as it may affect the options you have:

- date and place of marriage or registration of partnership or start of cohabitation
- your nationalities and changes of nationalities
- any children
- the country(ies) where you have lived during your relationship and for how long
- any country(ies) to which you might move in the future
- the country(ies) where you own property, assets and debts, when acquired, how and by whom
- any previously concluded agreements concerning your relationship (e.g. prenuptial agreement or choice of property regime, cohabitation agreement)
- the country's law you would wish to apply to your property relations, pension rights or spousal maintenance
- the country where you would want to solve any disputes (e.g. by way of mediation or in court)

If possible, take all relevant documents with you to the meeting with your legal adviser.

For toolkits for legal advisers and further information see

www.empoweringeuropeanfamilies.eu