



### **WHAT CAN BE DONE?**

With an ever-increasing number of persons moving freely throughout the EU, cross-border family has become more frequent. Against that background, the European legislator has adopted numerous rules to solve some of the questions raised above.

The research of the EUFams II project has shown that, even though the legal framework for cross-border family life is highly complex, these rules generally function well in practice. At the same time, many citizens are unaware of the legal implications of cross-border family life which may lead to unforeseen consequences. Therefore, the aim of this information brochure is to make citizens aware in which situations they may face legal questions relating to cross-border family life. Citizens affected are strongly advised to obtain specialized consultation for their individual needs which cannot be provided in this concise information brochure but only by professionals, such as lawyers, notaries and public authorities.

### **FURTHER INFORMATION**

The EU maintains various informative websites for affected citizens:

- [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/civil-justice/family-law\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/civil-justice/family-law_en)
- [https://europa.eu/youreurope/citizens/family/index\\_en.htm](https://europa.eu/youreurope/citizens/family/index_en.htm)

# EUFAMS II

## FACILITATING CROSS-BORDER FAMILY LIFE: TOWARDS A COMMON EUROPEAN UNDERSTANDING

# INFORMATION BROCHURE

## LEGAL IMPLICATIONS OF CROSS-BORDER FAMILY LIFE

A joint project of the Institute for Comparative Law, Conflict of Laws and International Business Law at Universität Heidelberg, Universitat de València, Università di Verona, Università degli studi di Milano, Lund University, the University of Osijek, the Max Planck Institute Luxembourg for Procedural Law and the Asociación Española de Abogados de Familia

cooperating partners:



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## **DISCLAIMER**

This information brochure aims at raising awareness for the legal implications of cross-border family life. It is of a general nature and can therefore not substitute professional legal advice. The authors decline any liability in relation to this information brochure.

## **WHAT IS CROSS-BORDER FAMILY LIFE?**

Family life can have a cross-border element in various situations:

### **MARRIAGE, REGISTERED PARTNERSHIPS AND PRE-NUPTIAL AGREEMENTS**

- Persons of different nationalities enter into a marriage or a registered partnership
- Persons of the same nationality enter into a marriage or a registered partnership abroad
- Married couples or registered partners (plan to) move abroad

### **MAINTENANCE**

- Debtor and creditor of maintenance claims (e.g. former spouses or parents and children) live in different countries or possess different nationalities

### **SUCCESSION AND TESTAMENTS**

- Persons live in a country other than the country of their nationality
- Persons live in more than one country
- Persons possess property in different countries, e.g. a vacation home abroad

## **LEGAL IMPLICATIONS**

The general legal implication of cross-border family life is that different laws may be applicable. This is often overlooked by the persons involved. However, the applicability of different laws can have severe consequences

as national family and succession laws may be highly diverging for historical, cultural and religious reasons.

### **MARRIAGE, REGISTERED PARTNERSHIPS AND PRE-NUPTIAL AGREEMENTS**

A French and a German national who live in Berlin decide to get married in Paris.

- Is the marriage conducted in France valid in Germany?
- Which law applies to the couple's property regime (who owns property acquired prior and during the marriage)?
- Can the couple designate the law applicable by means of pre-nuptial agreement?

After being married for 5 years, the couple moves to Rome and shortly after decides to get divorced.

- Where can the couple file for divorce and which law applies?
- Can the couple choose venue and law either in advance by means of pre-nuptial agreement or after deciding to get a divorce?

### **MAINTENANCE**

A Polish-Italian couple lives in Italy with their child. After the couple divorces, the Polish national moves back to Poland with the child.

- Where can the Polish national and/or the child bring their claim for maintenance against the Italian national?
- Which law determines the maintenance rate?

### **SUCCESSION AND TESTAMENTS**

A retired Irish national decides to move to Spain for its sunny climate. Occasionally, the Irish national returns to Ireland to visit family and friends.

- Which law would apply to the succession without a testament?
- Can a law be chosen by means of testaments?
- What are the formal requirements for testating abroad (should the Irish national see a notary or can the Irish national draw up the testament itself)?