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Matters of matrimonial property regimes

National information concerning Regulation 2016/1103

In June 2016, the European Union adopted a [Regulation](#) concerning the property regimes of international marriages aimed at helping couples manage their property on a daily basis and to divide it in case of divorce or of the death of one member. The Regulation was adopted under the procedure of enhanced cooperation by 18 EU countries: Sweden, Belgium, Greece, Croatia, Slovenia, Spain, France, Portugal, Italy, Malta, Luxembourg, Germany, the Czech Republic, the Netherlands, Austria, Bulgaria, Finland and Cyprus. Other EU countries can join the Regulation any time (in such case the country will also have to join the Regulation concerning the property consequences of registered partnerships).

The Regulation will provide international marriages with legal certainty and reduce the costs of legal proceedings as couples will know which country's courts should deal with matters concerning their property and which national law should apply to resolve such matters. The Regulation will also facilitate the recognition and enforcement of decisions on property matters given in another EU country. As a couple's property must be divided in case of divorce or death, the Regulation will also facilitate the application of EU rules on cross-border divorces and successions. The Regulation will apply as from 29 January 2019.

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Matters of matrimonial property regimes - Belgium

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

With competence to deal with applications for a declaration of enforceability: the court of first instance, more specifically the family court ('tribunal de la famille').

As regards appeals against decisions on such applications:

to lodge an objection: the court of first instance, more specifically the family court ('tribunal de la famille');

to lodge an appeal: the Court of Appeal ('Cour d'appel').

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Decisions delivered on appeal are subject to review by the Court of Cassation ('Cour de Cassation') alone.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

No other authorities according to the criteria laid down in Article 3(2).

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Matters of matrimonial property regimes - Bulgaria

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The application for a declaration of enforceability of a judgment or other act issued in another EU Member State is lodged with the provincial court. (Article 623(1) of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The decision is subject to appeal before the Sofia Court of Appeal. Further appeals against decisions of the Sofia Court of Appeal are to be lodged with the Supreme Court of Cassation. (Article 623(6) of the Code of Civil Procedure).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable.

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Matters of matrimonial property regimes - Czech Republic

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

In the Czech Republic it is the district courts [*okresní soudy*].

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Only extraordinary remedial measures may be used, namely:

- action for annulment [*zmatečnost*];

- action to re-open proceedings [*žaloba na obnovu řízení*];

- review of an appeal [*dovolání*].

All the extraordinary appeal procedures listed should be lodged with the court which ruled on the case at first instance.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

This means notarial entities such as court commissioners (Section 162(2) in conjunction with Sections 100(1) and 103(1) of Act No 292/2013 on special judicial procedures).

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Matters of matrimonial property regimes - Greece

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The competent court for declaring the enforceability of a decision concerning matrimonial property regimes and the property consequences of registered partnerships on the application of the interested party, under Article 44(1) of the Regulations in question, is the Single Member Court of First Instance (Monomeles Protodikeio) during the non-contentious proceedings (Article 740 et seq. of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The competent court for appeals in adversarial proceedings against decisions on applications for a declaration of enforceability in accordance with Article 49 (2) of the Regulations in question, is the Court of Appeal (Efeteio). According to the case-law of the Court of Cassation, this takes the form of an application / appeal tried at first and final instance by the Court of Appeal, by way of exception to the rule of Article 12(2) of the Code of Civil Procedure.

A decision of the Court of Appeal under Article 50 of the Regulations in question, as described under point (b), may be contested by an appeal in cassation.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - France

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The applications referred to in Article 44 are to be submitted to the chief registrar (*greffier en chef*) of the regional court (*tribunal de grande instance*) (Articles 509(1) and 509(2) of the Code of Civil Procedure (*code de procédure civile*)) where they relate to a court decision or court settlement, and to the president of the Association of Notaries (*chambre des notaires*), or his or her replacement in case of absence or incapacity, if they relate to an authentic instrument. The authority before which the appeals referred to in Article 49(2) are to be lodged is the president of the regional court (Article 509(9) of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

A decision given by the president of the regional court on an appeal can be contested only by bringing an appeal on a point of law (*pourvoi en cassation*) before the Court of Cassation (*Cour de cassation*).

The grounds for an appeal on a point of law may differ (ruling contravening the law, misuse of power, lack of jurisdiction, lack of legal basis, lack of legal grounds, conflicting judgments, etc.), but in each case the court limits itself to a review of the application of the law. This means that the Court of Cassation checks that the ruling did not contravene the law or disregard the rule of law, but does not examine the facts of the case.

Cour de cassation

5 quai de l'Horloge

75055 Paris

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - Croatia

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Applications for a declaration of enforceability in accordance with Article 44(1) and appeals against decisions on such applications in accordance with Article 49(2) are to be lodged with the municipal courts.

The responsible courts are:

All municipal courts under the Territories and Seats of Courts Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) No 128/14).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Under applicable national law in Croatia, there is no mechanism by which, for the purposes of Article 50, a decision on a legal remedy may be further contested, i.e. there are no courts with which a further appeal may be lodged.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

In Croatia, the municipal courts are responsible for dealing with non-litigious and enforcement cases under the Courts Act (NN Nos 28/13, 33/15, 82/15, 82 /16). Therefore, under applicable national law in Croatia, there are no other competent authorities or legal professionals in accordance with Article 3(2) of the Regulation with competence in matters of matrimonial property regimes which exercise judicial functions or act by delegation of power by a judicial authority or under its control.

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Matters of matrimonial property regimes - Italy

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The court with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) is the Court of Appeal [*Corte di Appello*].

The court with competence to deal with appeals against decisions on applications for a declaration of enforceability in accordance with Article 49(2) is the Supreme Court of Cassation [*Suprema Corte di Cassazione*].

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The decision given on appeal may be contested through:

- 1) an application for revision in accordance with Article 391-*bis* and *ter* of the Code of Civil Procedure;
- 2) an application initiating third-party proceedings in accordance with Article 391-*ter* of the Code of Civil Procedure.

An application for correction may also be brought against the decision if the judgment is affected by clerical mistakes or errors in calculation.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

For the purposes of Article 3(2) this includes:

lawyers acting under the assisted negotiation [*negoziazione assistita*] procedure in accordance with Article 6 of Decree-Law No 132 of 2014;

civil registrars acting under the assisted negotiation procedure in accordance with Article 12 of Decree-Law No 132 of 2014.

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Matters of matrimonial property regimes - Cyprus

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts with competence to deal with applications for a declaration of enforceability are the Family Courts. Appeals against decisions on such applications are heard by the Second-Instance Family Court (Deftero báthmio Oikogeneiakó Dikastírio).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The procedures to contest the decision given on appeal are the appeal procedure laid down in Article 25 of the Courts of Justice Law, Law 14/60, and the issuing of prerogative writs in accordance with Article 155 of the Constitution.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - Luxembourg

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1):

President of the District Court (*Tribunal d'arrondissement*)

Contact details:

Tribunal d'arrondissement de Luxembourg

Cité judiciaire

L-2080 Luxembourg

Tel.: 00352 475981-1

Tribunal d'arrondissement de Diekirch

Palais de Justice

Place Guillaume

L-9237 Diekirch

Tel.: 00352 803214-1

Courts or authorities with competence to deal with appeals against decisions on such applications in accordance with Article 49(2):

Court of Appeal sitting in civil matters (*Cour d'appel siégeant en matière civile*)

Contact details:

Cour d'appel

Cité judiciaire

L-2080 Luxembourg

Tel.: 00352 475981-1

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Procedures to contest the decision given on appeal referred to in Article 50:

Court of Cassation

Contact details:

Cour de cassation

Cité judiciaire

L-2080 Luxembourg

Tel.: 475981-369/373

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

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Matters of matrimonial property regimes - Netherlands

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Application for a declaration of enforceability pursuant to Article 44(1): the judge hearing applications for interim relief (*voorzieningenrechter*) at the district court.

Appeal against a decision on this application pursuant to Article 49(2): the district court whose judge hearing applications for interim relief has ruled on the application for recognition or the declaration of enforceability.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Appeal in cassation to the Supreme Court.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable to the Netherlands.

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Matters of matrimonial property regimes - Austria

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts with jurisdiction to deal with applications for a declaration of enforceability under Article 44(1) of the Regulation are the Enforcement Court (*Exekutionsgericht*) or District Court (*Bezirksgericht*) where the defendant is domiciled.

The court with jurisdiction to deal with appeals against decisions on applications for a declaration of enforceability is the higher Regional Court (*Landesgericht*); however, the appeal must be lodged with the court of first instance that issued the decision.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Appeals against points of law (*Revisionsrekurs*) are made to the Supreme Court (*Oberster Gerichtshof*) but must be lodged with the court of first instance.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

In Austria, there are no other authorities or legal professionals with competence within the meaning of Article 3(2) in matters of matrimonial property regimes.

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Matters of matrimonial property regimes - Portugal

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) are as follows:

- the family and minors division (*juízo de família e menores*); or, if there isn't one:
- the local civil division (*juízo local cível*), if one exists; or
- the general division (*juízo de competência genérica*) of the district court (*tribunal de comarca*) with jurisdiction.

In accordance with Article 49(2), appeals against decisions on such applications are heard by the courts of appeal (*Tribunais da Relação*).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

For the purposes of Article 50, a decision given on appeal can only be contested by bringing an appeal on a point of law (*recurso de revista*) before the Supreme Court of Justice (*Supremo Tribunal de Justiça*).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

- The courts, specifically the family and minors divisions, local civil divisions, general divisions, the courts of appeal and the Supreme Court of Justice;
- Civil registry offices*.

* Decree-Law No 271/2001 of 13 October 2010 (<http://data.dre.pt/eli/dec-lei/271/2001/10/13/p/dre/pt/html>), as last amended by Decree-Law No 122/2013 of 26 August 2013, gives civil registry offices competence in proceedings relating to the designation of the family home, legal separation, conversion of a legal separation into a divorce, and divorce, provided that, in all of the cases referred to above, there is agreement/mutual consent between the parties (see Article 16 of the Decree-Law, which gives civil registry offices powers equivalent to courts for that purpose).

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Matters of matrimonial property regimes - Finland

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Declaration of enforceability:

District Court

Appeal against a decision of the District Court:

Court of Appeal

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

An appeal against a decision of the Court of Appeal is an appeal to the Supreme Court, if the Supreme Court grants leave to appeal (Chapter 30, Sections 1-3 of the Code of Judicial Procedure).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Executor appointed by the court

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Matters of matrimonial property regimes - Sweden

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

District court

Territorial jurisdiction

Nacka district court (<i>Nacka tingsrätt</i>)	Stockholm County (<i>Stockholms län</i>)
Uppsala district court	Uppsala County
Eskilstuna district court	Södermanland County
Linköping district court	Östergötland County
Jönköping district court	Jönköping County
Växjö district court	Kronoberg County
Kalmar district court	Kalmar County
Gotland district court	Gotland County
Blekinge district court	Blekinge County
Kristianstad district court	Municipalities (<i>kommuner</i>) of Bromölla, Båstad, Hässleholm, Klippan, Kristianstad, Osby, Perstorp, Simrishamn, Tomelilla, Åstorp, Ängelholm, Örkelljunga and Östra Göinge
Malmö district court	Municipalities of Bjuv, Burlöv, Eslöv, Helsingborg, Höganäs, Hörby, Höör, Kävlinge, Landskrona, Lomma, Lund, Malmö, Sjöbo, Skurup, Staffanstorps, Svalöv, Svedala, Trelleborg, Vellinge and Ystad
Halmstad district court	Halland County
Göteborg district court	Municipalities of Göteborg, Härryda, Kungälv, Lysekil, Munkedal, Mölndal, Orust, Partille, Sotenäs, Stenungsund, Strömstad, Tanum, Tjörn, Uddevalla and Öckerö
Vänersborg district court	Municipalities of Ale, Alingsås, Bengtsfors, Bollebygd, Borås, Dals-Ed, Färgelanda, Herrljunga, Lerum, Lilla Edet, Mark, Mellerud, Svenljunga, Tranemo, Trollhättan, Ulricehamn, Vårgårda, Vänersborg and Åmål
Skaraborg district court	Municipalities of Essunga, Falköping, Grästorp, Gullspång, Götene, Habo, Hjo, Karlsborg, Lidköping, Mariestad, Mullsjö, Skara, Skövde, Tibro, Tidaholm, Töreboda and Vara
Värmland district court	Värmland County
Örebro district court	Örebro County
Västmanland district court	Västmanland County
Falu district court	Dalarna County
Gävle district court	Gävleborg County
Ångermanland district court	Västernorrland County
Östersund district court	Jämtland County
Umeå district court	Västerbotten County
Luleå district court	Norrbotten County

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

An appeal (*överklagande*) to the Court of Appeal (*hövrätt*) or to the Supreme Court (*Högsta domstolen*). The appeal has to be lodged at the court that has given judgment. The appeal will be heard only if the Court of Appeal or the Supreme Court grants leave to appeal (*prövningstillstånd*).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Executor (*bodelningsförrättare*)

Estate administrator (*boutredningsman*)

In summary proceedings concerning payment orders or assistance, the Enforcement Authority (*Kronofogdemyndigheten*)

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