

Hem>Rättsliga åtgärder>Europeisk civilrättslig atlas>Skilsmässa och hemskillnad

Skilsmässa och hemskillnad

Nationell information om förordning nr 1259/2010

Allmän information

Europeiska unionen har satt som mål att utveckla ett område med frihet, säkerhet och rättvisa, genom att anta åtgärder om rättsligt samarbete i civilrättsliga frågor med gränsöverskridande inslag. Samtidigt kräver den ökade rörligheten för medborgarna på den inre marknaden mer flexibilitet och ökad rättssäkerhet.

Rådets förordning (EU) nr 1259/2010 av den 20 december 2010 om genomförande av ett fördjupat samarbete om tillämplig lag för äktenskapsskillnad och hemskillnad (den s.k. Rom III-förordningen) ger medborgarna ändamålsenliga lösningar när det gäller rättssäkerhet, förutsägbarhet och flexibilitet, skyddar den svagare parten i en skilsmässa och förhindrar "forum shopping". Därigenom blir det också möjligt att undvika komplicerade, utdragna och smärtsamma förfaranden.

Mer specifikt innebär förordning (EU) nr 1259/2010 att internationella par i förväg kan komma överens om vilken lagstiftning som ska tillämpas på deras äktenskapsskillnad eller hemskillnad förutsatt att den avtalade lagen är lagen i den medlemsstat som de har närmast anknytning till. Om paret inte kan komma överens finns det gemensamma regler som domstolarna kan använda för att avgöra vilken lands lagstiftning som ska tillämpas.

Förordningen är däremot inte tillämplig på fysiska personers rättshandlingsförmåga, frågan om ett äktenskap överhuvudtaget har ingåtts samt giltigheten och erkännandet av äktenskap, annullering av äktenskap, makarnas efternamn, äktenskapets förmögenhetsrättsliga konsekvenser, föräldraansvar, underhållsskyldighet samt arvstruster och arv. Den påverkar inte heller tillämpningen av förordning (EG) nr 2201/2003 om domstols behörighet och om erkännande och verkställighet av domar i äktenskapsmål och mål om föräldraansvar.

Den är ett instrument för fördjupat samarbete mellan de deltagande medlemsstaterna. Det fördjupade samarbetet gör det möjligt för en grupp om minst nio medlemsstater att genomföra åtgärder inom något av de områden som avses i fördragen inom ramen för unionens icke exklusiva befogenheter. Enligt artikel 331 i EUF-fördraget har icke deltagande medlemsstater rätt att ansluta sig till ett pågående fördjupat samarbete.

På den europeiska e-juridikportalen hittar du information om hur förordningen tillämpas.

Fördjupat Samarbete

Den 12 juli 2010 antog rådet [beslut 2010/405/EU](#) om bemyndigande att upprätta ett fördjupat samarbete om tillämplig lag för äktenskapsskillnad och hemskillnad mellan Belgien, Bulgarien, Tyskland, Spanien, Frankrike, Italien, Lettland, Luxemburg, Ungern, Malta, Österrike, Portugal, Rumänien och Slovenien. Som en följd av detta antog de nämnda 14 deltagande medlemsstaterna rådets [förordning \(EU\) nr 1259/2010](#), som började tillämpas den 21 juni 2012.

Den 21 november 2012 antog kommissionen [beslut 2012/714/EU](#), som bekräftar Litauens deltagande i ett fördjupat samarbete om tillämplig lag för äktenskapsskillnad och hemskillnad. I beslutet föreskrivs att förordning (EU) nr 1259/2010 ska tillämpas på Litauen från och med den 22 maj 2014.

Den 27 januari 2014 antog kommissionen [beslut 2014/39/EU](#) som bekräftar Greklands deltagande i ett fördjupat samarbete om tillämplig lag för äktenskapsskillnad och hemskillnad. I beslutet föreskrivs att förordning (EU) nr 1259/2010 ska tillämpas på Grekland från och med den 29 juli 2015.

Den 10 augusti 2016 antog kommissionen [beslut \(EU\) 2016/1366](#) som bekräftar Estlands deltagande i ett fördjupat samarbete om tillämplig lag för äktenskapsskillnad och hemskillnad. I beslutet föreskrivs att förordning (EU) nr 1259/2010 ska tillämpas på Estland från och med den 11 februari 2018.

Om du vill läsa fördjupad information från ett visst land väljer du det landets flagga.

Länk

[ARKIVERAD VERSION av Europeiska civilrättsatlasen \(arkiverades den 30 september 2017\)](#)

Senaste uppdatering: 09/07/2018

Den här sidan sköts av Europeiska kommissionen. Informationen på denna sida avspeglar inte nödvändigtvis Europeiska kommissionens officiella ståndpunkt. Kommissionen påtar sig inte något som helst ansvar för information eller uppgifter som ingår eller åberopas i detta dokument. Vänligen läs den rättsliga informationen för upplysningar om upphovsrätten till EU-sidor.

Law applicable to divorce and legal separation - Belgium

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Belgian legislation does not lay down any specific formal requirements for agreements on the choice of applicable law in accordance with Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

With regard to the rules on the choice of applicable law, the third paragraph of Article 55, § 2, of the Belgian Code of Private International Law (*Wetboek van internationaal privaatrecht/Code de droit international privé*) provides that the choice must be expressed at the first appearance (Act on the Code of Private International Law of 16 July 2004, *Belgisch Staatsblad/Moniteur belge* of 27 July 2004, which entered into force on 1 October 2004).

Last update: 28/07/2017

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Germany

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

According to German law (Article 46(d)(1) EGBGB) a choice-of-law agreement pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010 is to be recorded in a notarial act. Article 127(a) of the Civil Code applies *mutatis mutandis*.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

According to German law (Article 46(d)(2) EGBGB), the spouses can choose the applicable law pursuant to Article 5(3) of Regulation (EU) No 1259/2010 up to the conclusion of the hearing at first instance.

Last update: 16/10/2015

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European

Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Estonia

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Under Section 641(2) and (3) of the [Family Law Act](#), spouses may enter into an agreement on the law applicable to the divorce corresponding to Council Regulation (EU) No 1259/2010 in person in a notarially authenticated form, or the entry into such judicial proceedings may be recorded as a substitute for the notarially authenticated form.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Section 641(4) of the [Family Law Act](#), spouses may enter into and amend the agreements specified at any time until a petition for divorce is accepted by a notary or in judicial proceedings until the conclusion of preliminary proceedings or the expiry of the deadline for applications in written procedure.

Last update: 21/11/2018

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Greece

Following a statement from Greece on this issue, the European Commission, in its Decision of 27.1.2014 (OJ L 23, p. 41), confirmed the participation of Greece in enhanced cooperation in the area of the law applicable to divorce and legal separation, which is established by Regulation (EU) No 1259/2010 ('Rome III').

Under the above Decision, Regulation (EU) No 1259/2010 applies in Greece as of 29 July 2015.

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

In Greek law there are no specific national provisions concerning the formal requirements that apply to agreements on the choice of applicable law pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

In Greek law there are no specific national provisions concerning the possibility of designating the applicable law in accordance with Article 5(3) of Regulation (EU) No 1259/2010.

Last update: 11/03/2016

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Spain

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Spanish law lays down additional formal requirements for agreements on the choice of applicable law in accordance with Articles 7(2) to 7(4) of Regulation (EU) No 1259/2010, namely that the choice of applicable law must be agreed upon in an authentic instrument before a notary public or in an authentic document, which must be clearly and unmistakably dated and signed by the parties, even if the document itself is not a notarial act.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Spanish law, the spouses may not designate the applicable law before the court during the proceedings.

Last update: 12/03/2019

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Obs. Nyligen ändrades ursprungsversionen på [fr](#) av den här sidan. Våra översättare håller på att översätta den nya sidan till svenska.

Law applicable to divorce and legal separation - France

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

The EU Regulation lays down three formal requirements that must be met if an agreement on the choice of law is to be valid: the agreement must be in writing, it must be dated, and it must be signed by the parties.

The Regulation also gives states the right to lay down additional formal requirements and clarifies how such rules are to be applied depending on the situation of the spouses.

There are no provisions in French law regarding the formal requirements applicable to agreements on the choice of law in divorce or legal separation cases. Consequently, France has not made a declaration under Article 17(1)(a).

If they so wish, therefore, the spouses can choose to seek professional help from the person they believe is best placed to advise them.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

The Regulation states that an agreement between the spouses choosing the law applicable to a divorce or legal separation may be concluded and modified at any time, but at the latest at the time a court is seized.

However, if the law of the forum so provides, the applicable law can also be designated by the spouses before the court during the proceedings (Article 5(2) and (3)).

This option is not expressly provided for in French law. This explains why France has not made a declaration under Article 17(1)(b).

Last update: 02/12/2016

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Latvia

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Latvian law lays down no additional formal requirements applicable to agreements on the choice of law, other than those referred to in Article 7(1) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Latvian law does not provide for the possibility of designating the applicable law before the court in the course of the proceedings.

Last update: 06/02/2019

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Luxembourg

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

No additional formal requirements are currently in place in Luxembourg.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

In Luxembourg, it is not possible to designate the applicable law before the court during the proceedings.

Last update: 23/04/2019

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Hungary

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

No further formal requirements apply to agreements on the choice of applicable law other than those provided for in Article 7(1) of Regulation (EU) No 1259 /2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

The latest time spouses can choose the applicable law is at the trial preparation stage, within the deadline set by the court.

Last update: 21/11/2018

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Austria

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Austrian Law provides no additional formal requirements for a choice-of-law agreement pursuant to Article 7(2) to (4) of Regulation (EU) No 1259/2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

According to Austrian Law (§ 11(3) IPRG), the spouses can choose the applicable law pursuant to Article 5(3) of Regulation (EU) No 1259/2010 also before the court during the course of the proceedings, provided that the choice of law is exercised explicitly and not only by implied behaviour.

Last update: 07/08/2017

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Portugal

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

Nothing to communicate.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Nothing to communicate.

Last update: 08/08/2019

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.

Law applicable to divorce and legal separation - Romania

Article 7 (2) to (4) - Formal requirements applicable to agreements on the choice of applicable law

There are no further formal requirements applicable to agreements on the choice of law than those stipulated by Article 7 (1) of Regulation (EU) No 1259 /2010.

Article 5 (3) - Possibility of designating the applicable law during the course of the proceeding

Under Romanian law, the spouses may also designate the law applicable to divorce after the court has been seised, but no later than the date of the first court hearing at which the spouses have been legally summoned.

Last update: 16/10/2015

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.