



## Property rights for Europe's international couples

There are approximately [16 million](#) international couples (either of different nationalities and/or living abroad) in the EU. They face legal difficulties and high procedural costs due to uncertainties over which national laws apply to their property. This is particularly the case when one of them dies, or when a couple separates (around 650 000 cases per year).

### Commission proposals

The Commission's 2006 [Green Paper on the conflict of laws in matters concerning matrimonial property regimes](#) led to several consultations on all types of problems faced by international couples. Member States (MS) generally agreed that a single legal instrument (for married couples and those in registered partnerships) would be beneficial. However, an [impact assessment](#) concluded that, due to MS' different regimes, separate instruments would be needed. A [conference](#) in 2011 focused on the law applicable, competent court and recognition and enforcement in cross-border cases.

These issues were also raised in the [EU Citizenship Report 2010](#) and amongst [scholars](#).

In 2011, the Commission proposed regulations:

- on jurisdiction, applicable law and recognition and enforcement of decisions in matters of [matrimonial property regimes](#), and on
- the same aspects in [registered partnerships](#).

The legal basis for both proposals is Article 81(3) TFEU which confers on the Council the power to adopt unanimously measures concerning family law having cross-border implications, after consulting Parliament.

### Main content of the proposals

Matrimonial property regimes, or property consequences for registered partnerships, are a set of rules concerning the property rights of spouses or partners, both between themselves and in respect of third parties.

The two proposed regulations:

- Provide coherent rules to determine the **competent court** and the **applicable law** in order to bring legal certainty for international couples (married or in registered partnerships);
- Enable married international couples to **choose** the law that applies to their property in case of death or divorce;
- Submit the joint property of a registered partnership with an international dimension to the law of the country in which the partnership was **registered** (this was [considered](#) discriminatory by the EU Agency for Fundamental Rights, in comparison to the choice available to married couples);
- Facilitate the process for **recognising and enforcing** decisions, [authentic instruments](#) (documents recording a legal act or fact whose authenticity is certified by a public authority, e.g. a title to property ownership) and court settlements throughout the EU. The proposals would establish, for example, that a foreign decision cannot be reviewed as to its substance, and that in the case of registered partnerships recognition and enforcement cannot be refused merely on the grounds that the MS addressed does not recognise registered partnerships or accord their property the same consequences.
- Clarify which law governs the effects, of either the matrimonial property regime or the registered partnership, on a legal relationship (e.g. a mortgage) between a spouse/partner and a third party.

### European Parliament

The European Parliament is due to vote on both proposals (on [matrimonial property regimes](#) and [property consequences of registered partnerships](#)) in September 2013. The rapporteur for the Committee on Legal Affairs is Alexandra Thein (ALDE, Germany).