

Matrimonial property regimes throughout the world

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24 May 2019

CLASSIFICATION

a) Effects

- 1) Unity or absorption
- 2) Community
- 3) Separation
- 4) Participation

b) Origin

- 1) Contractual
- 2) Legal

CLASSIFICATION (II)

- Types of economic matrimonial property regimes at present:
 - 1) Universal community
 - 2) Limited community
 - 3) Deferred community
 - 4) Separation of property
 - Judicial distribution
 - Combined with dowry
 - 5) Participation/share in profits

CHARACTERISTICS

- Role of women
- Mutability
- Freedom to sign marriage deals
- Need of a matrimonial property regime
- Diversity
- Lack of universality

Matrimonial property regimes in the EU

- New regulations that have entered into force as of 29 January 2019:
 - Regulation 2016/1103 on matrimonial property regimes
 - Regulations 2016/1104 on property consequences of registered partnerships

CHARACTERISTICS OF THE REGULATION

- Enhanced cooperation
- 18 Member States
- Almost 70 % of the EU population
- Does not include a definition of marriage or of registered partnerships

CHARACTERISTICS (II)

- Aim:
 - Clarify which courts should deal with matters concerning couples' properties
 - Clarify which national law should apply to such matters
 - Facilitate recognition and enforcement in one MS of judgements given in another MS
- Both in a daily basis and in case of divorce/separation or death of one member

CHARACTERISTICS (III)

- Reason:
 - Certainty
 - Diminish costs of legal proceedings

- Applicable law (when chosen by the couple):
 - Law of residence
 - Common nationality
 - Nationality of one of the members of the couple

CHARACTERISTICS (IV)

- Applicable law (when not chosen by the couple):
 - Common residence
 - Common nationality
 - Law of the country with which the couple has a stronger connection

Types of matrimonial property regimes in Europe

- Continental countries: limited community
- Scandinavian countries: deferred community
- Anglo-Saxon countries: separation
- Germanic countries: participation

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