What would a cross-border divorce require to be registered in your land register?

Francisco J. Gimeno

Secretary General ELRA

European Land Registry Association

Co-funded by
the European Union

Barcelona, October 30th 2025

ANSWERS TO LAST QUESTIONNAIRE

1. Type of document required

Austria, Estonia, Finland, Sweden, Latvia, Spain, Poland, Portugal, Bulgaria, Hungary, Italy, Luxembourg, Romania, Slovakia, Netherlands: A judicial decision (divorce decree) or a notarial deed is accepted for registering the transfer of ownership following divorce. In some countries, a private agreement is also accepted if it meets certain requirements.

Ireland: Only the standard form from the Irish Land Registry is accepted; foreign documents are not accepted.

Italy and Luxembourg: Foreign documents must go through a local notary or be accompanied by an “acte de dépôt”.

2. Are foreign documents accepted?

Most countries accept foreign documents, but they usually require an official translation and sometimes legalisation or apostille. Some countries (like Ireland and Romania) do not accept foreign documents for the division of local real estate.

ANSWERS TO LAST QUESTIONNAIRE

3. Divorce and division of assets in the same document?

In many countries, divorce and division of assets may be in the same document, but they are often separate documents. For property registration purposes, the key document is the one that establishes the transfer of ownership.

4. Economic effects and non-marital assets

In most countries, the economic effects of divorce (such as asset division) may be settled in a single document, provided the parties and the assets are clearly identified.

5. Cohabiting couples and civil partnerships

Treatment varies greatly: some countries apply rules similar to those for marriage, while others do not recognize automatic property effects and require private agreements.

WHICH LAW APPLIES TO MATRIMONIAL PROPERTY REGIME?

- **Unity** of the applicable law.
- **Choice** of the applicable law.
- **Formal validity** of a matrimonial property agreement.
- Applicable law **in the absence of choice** by the parties.

OUT OF THE SCOPE OF THE REGULATION

RECITALS (26) AND (27)

ART. 1.2. The following shall be excluded from the scope of this Regulation: (…)

(g) the nature of rights in rem relating to a property;

(h) and (h) any recording in a register of rights in immoveable or moveable property, including the legal requirements for such recording, and the effects of recording or failing to record such rights in a register.

STANDARD FORM FOR RECOGNITION

Article 58.1 of Regulation (EU) 2016/1103 states that “An authentic instrument established in a Member State shall have the same evidentiary effects in another Member State as it has in the Member State of origin, or the most comparable effects, provided that this is not manifestly contrary to public policy (ordre public) in the Member State concerned.

A person wishing to use an authentic instrument in another Member State may ask the authority establishing the authentic instrument in the Member State of origin to fill in the form established in accordance with the advisory procedure referred to in Article 67(2) describing the evidentiary effects which the authentic instrument produces in the Member State of origin”.

STANDARD FORM FOR RECOGNITION

According to Article 58.1 of Regulation (EU) 2016/1103, Commission Implementing Regulation (EU) 2018/1935 of 7 December 2018 (only applicable to Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden) adopts the form to be used for the attestation concerning an authentic instrument referred to this Articles 58(1) (Annex II).

ANNEX II

ATTESTATION

CONCERNING AN AUTHENTIC INSTRUMENT IN A MATTER OF MATRIMONIAL PROPERTY REGIMES

(Articles 58(1) and 59(2) of of Council Regulation (EU) 2016/1103 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (¹))

1. **Member State of origin** (*)

☐ Belgium ☐ Bulgaria ☐ Czech Republic ☐ Germany ☐ Greece ☐ Spain ☐ France ☐ Croatia ☐ Italy ☐ Cyprus ☐ Luxembourg ☐ Malta ☐ Netherlands ☐ Austria ☐ Portugal ☐ Slovenia ☐ Finland ☐ Sweden

2. **Authority having established the authentic instrument and issuing the attestation**

2.1. Name and designation of authority (*): ……

2.2. Address

2.2.1. Street and number/PO box (*): ……

……

……

2.2.2. Place and postcode (*): ……

2.3. Telephone (*): ……

2.4. Fax ……

2.5. Email: ……

2.6. Other relevant information (please specify): ……

……

……

3. **Authentic instrument**

3.1. Date (dd/mm/yyyy) on which the authentic instrument was drawn up (*): ……

(3.3.1 or 3.3.2 to be completed ONLY if different from the date indicated in point 3.1 and if the date of registration/deposit at the register determines the legal effect of the instrument)

3.3.3. Reference number in the register: ……

3.4. Parties to the authentic instrument (¹)

3.4.1. ***Party A***

3.4.1.1. Surname and given name(s) (*): ……

……

3.4.1.2. Date (dd/mm/yyyy) and place of birth: ……

3.4.1.3. Identification number (²)

3.4.1.3.1. Identity number: ……

3.4.1.3.2. Social security number: ……

3.4.1.3.3. Other (please specify): ……

3.4.1.4. Address

3.4.1.4.1. Street and number/PO box: ……

……

3.4.1.4.2. Place and postcode: ……

3.4.1.4.3. Country

☐ Belgium ☐ Bulgaria ☐ Czech Republic ☐ Germany ☐ Greece ☐ Spain ☐ France ☐ Croatia ☐ Italy ☐ Cyprus ☐ Luxembourg ☐ Malta ☐ Netherlands ☐ Austria ☐ Portugal ☐ Slovenia ☐ Finland ☐ Sweden

☐ Other (please specify ISO-code): ……

3.4.2. ***Party B***

3.4.2.1. Surname and given name(s) (*): ……

3.4.2.2. Date (dd/mm/yyyy) and place of birth: ……

3.4.2.3. Identification number (²)

3.4.2.4.1. Street and number/PO box:

3.4.2.4.2. Place and postcode:

3.4.2.4.3. Country

☐ Belgium ☐ Bulgaria ☐ Czech Republic ☐ Germany ☐ Greece ☐ Spain ☐ France ☐ Croatia ☐ Italy ☐ Cyprus ☐ Luxembourg ☐ Malta ☐ Netherlands ☐ Austria ☐ Portugal ☐ Slovenia ☐ Finland ☐ Sweden

☐ Other (please specify ISO-code):

4. **Acceptance of the authentic instrument** (Article 58 of Council Regulation (EU) 2016/1103)

4.1. Is acceptance of the authentic instrument sought? (*)

4.1.1. ☐ Yes

4.1.2. ☐ No

4.2. ***Authenticity of the instrument (*): if YES under point 4.1.1)***

4.2.1. ☐ Under the law of the Member State of origin, the authentic instrument has specific evidentiary effects compared to other written documents (*).

4.2.1.1. The specific evidentiary effects concern the following elements: (*)

4.2.1.1.1. ☐ the date the authentic instrument was drawn up

4.2.1.1.2. ☐ the place where the authentic instrument was drawn up

4.2.1.1.3. ☐ the origin of the signatures from the parties of the authentic instrument

4.2.1.1.4. ☐ the content of the declarations of the parties

4.2.1.1.5. ☐ the facts that the authority declares as having been verified in its presence

4.2.1.1.6. ☐ the actions which the authority declares to have carried out

4.2.1.1.7. ☐ other (please specify):

4.2.2. ☐ Under the law of the Member State of origin, the authentic instrument loses its specific evidentiary effects on the basis of (please indicate if relevant):

4.2.2.1. ☐ a judicial decision given in

4.2.2.1.1. ☐ an ordinary judicial procedure

4.2.2.1.2. ☐ a special judicial procedure provided by the law for this purpose (please indicate the name and/or the relevant legal references):

(*) Mandatory information.

4.2.2.2. ☐ Other (please specify):

4.2.3. ☐ To the knowledge of the authority, the authentic instrument has not been challenged in the Member State of origin as to its authenticity (*).

4.3. ***Legal acts and relationships recorded in the authentic instrument (*): if YES under point 4.1.1)***

4.3.1. To the knowledge of the authority, the authentic instrument (*):

4.3.1.1. ☐ is not challenged as to the legal acts and/or legal relationships recorded

4.3.1.2. ☐ is being challenged as to the legal acts and/or legal relationships recorded on specific points not covered by this attestation (please specify):

4.3.2. ☐ Other relevant information (please specify):

5. **Other information**

5.1. In the Member State of origin, the authentic instrument is a valid document for the purposes of recording a right in immovable or movable property in its registers (¹):

5.1.1. ☐ Yes (please specify):

5.1.2. ☐ No

6. **Enforceability of the authentic instrument** (Article 59 of Council Regulation (EU) 2016/1103)

6.1. Is enforcement of the authentic instrument sought? (*)

6.1.1. ☐ Yes

(*) Mandatory information.

(¹) The recording in a register of a right in immovable or movable property is subject to the law of the Member State in which the register is kept.

6.1.2. ☐ No

6.2. If YES under point 6.1.1, is the authentic instrument enforceable in the Member State of origin without any further conditions having to be met? (*)

6.2.1. ☐ Yes (please specify the enforceable obligation(s)): ...

6.2.2. ☐ Yes, but limited to part(s) of the authentic instrument (please specify the enforceable obligation(s)): ...

6.2.3. ☐ The obligation(s) is(are) enforceable against the following person(s): (*)

6.2.3.1. ☐ Party A

6.2.3.2. ☐ Party B

6.2.3.3. ☐ Other (please specify): ...

7. Interest

7.1. Is recovery of interest sought? (*)

7.1.1. ☐ Yes

7.1.2. ☐ No

7.2. If YES under point 7.1.1 (*)

7.2.1. Interest

7.2.1.1. ☐ Not specified in the authentic instrument

7.2.1.2. ☐ Yes, specified in the authentic instrument as follows

7.2.1.2.1. Interest due from: ... (date (dd/mm/yyyy) or event)

to: ... (date (dd/mm/yyyy) or event) (1)

(*) Mandatory information.

(1) Add the number of periods necessary if more than one period.

7.2.1.2.2. ☐ Final amount: ...

7.2.1.2.3. ☐ Method to calculate the interest

7.2.1.2.3.1. ☐ Rate: ... %

7.2.1.2.3.2. ☐ Rate: ... % over reference rate (ECB/reference rate of national central bank: ...)

in force on: ... (date (dd/mm/yyyy) or event)

7.2.2. Statutory interest to be calculated in accordance with (specify relevant statute): ...

7.2.2.1. Interest due from: ... (date (dd/mm/yyyy) or event)

to: ... (date (dd/mm/yyyy) or event) (1)

7.2.2.2. Method to calculate the interest

7.2.2.2.1. ☐ Rate: ... %

7.2.2.2.2. ☐ Rate: ... % over reference rate (ECB/reference rate of national central bank: ...)

in force on: ... (date (dd/mm/yyyy) or event)

7.2.3. Capitalisation of interest (please specify): ...

7.2.4. Currency

☐ euro (EUR) ☐ lev (BGN)

☐ Czech koruna (CZK) ☐ kuna (HRK)

☐ krona (SEK) ☐ Other (please specify (ISO code)): ...

If additional sheets have been added, state the total number of pages (*) ...

Done at (*): ... **on (*):** ... **(dd/mm/yyyy)**

Signature and/or stamp of the court or competent authority issuing the attestation (*): ...

(1) Add the number of periods necessary if more than one period.

(*) Mandatory information.

....

4.3.2. ☐ Other relevant information (please specify): ....

....

....

....

....

5. **Other information**

5.1. In the Member State of origin, the authentic instrument is a valid document for the purposes of recording a right in immovable or movable property in its registers ([1]).

5.1.1. ☐ Yes (please specify): ....

....

....

....

....

5.1.2. ☐ No

6. **Enforceability of the authentic instrument** (Article 59 of Council Regulation (EU) 2016/1103)

6.1. Is enforcement of the authentic instrument sought? (*)

6.1.1. ☐ Yes

(*) Mandatory information.

([1]) The recording in a register of a right in immovable or movable property is subject to the law of the Member State in which the register is kept.

ADAPTATION

(25) However, in order to allow the spouses to enjoy in another Member State the rights which have been created or transferred to them as a result of the matrimonial property regime, this Regulation should provide for the adaptation of an unknown right in rem to the closest equivalent right under the law of that other Member State. In the context of such an adaptation, account should be taken of the aims and the interests pursued by the specific right in rem and the effects attached to it. For the purposes of determining the closest equivalent national right, the authorities or competent persons of the State whose law is applied to the matrimonial property regime may be contacted for further information on the nature and the effects of the right. To that end, the existing networks in the area of judicial cooperation in civil and commercial matters could be used, as well as any other available means facilitating the understanding of foreign law.

(26) The adaptation of unknown rights in rem as explicitly provided for by this Regulation should not preclude other forms of adaptation in the context of the application of this Regulation.

ADAPTATION

Article 29

Adaptation of rights in rem

Where a person invokes a right in rem to which he is entitled under the law applicable to the matrimonial property regime and the law of the Member State in which the right is invoked does not know the right in rem in question, that right shall, if necessary and to the extent possible, be adapted to the closest equivalent right under the law of that State, taking into account the aims and the interests pursued by the specific right in rem and the effects attached to it.

QUESTIONS FOR THE ROUND TABLE

1. How do you **get to know** which is the **applicable law** to a marriage and hence which is the matrimonial property regimen of a couple? Is it enough with a statement from the parties?

2. Do you have **conflict of law rules** applying to matrimonial property regime? **Do you control**, in the LR, its application? Do you control the application of conflict of law rules included in Regulation (EU) 2016/1103 for marriages celebrated or choose of applicable law made after January 29th 2019?

QUESTIONS FOR THE ROUND TABLE

According to Article 58.1 of Regulation (EU) 2016/1103, Commission Implementing Regulation (EU) 2018/1935 of 7 December 2018 (only applicable to Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden) adopts the form to be used for the attestation concerning an authentic instrument referred to this Articles 58(1) (Annex II).

3. Are you aware of any case of presentation in your LR of a foreign authentic instrument **together with this form** fulfilled by an authority from the State of origin?

QUESTIONS FOR THE ROUND TABLE

4. The principle of adaptation is also included in Regulation (EU) 2016/1103, do you know of **any case** in your LR of application of this **adaptation principle**, regarding a right in rem to which a person is entitled under the law applicable to the matrimonial property regime?

THANK YOU

ELRA

European Land Registry Association

Francisco J. Gimeno
Secretary General ELRA
secretary.general@elra.eu