



Registradores  
DE ESPAÑA

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

Francisco J. Gimeno  
Spain CORPME



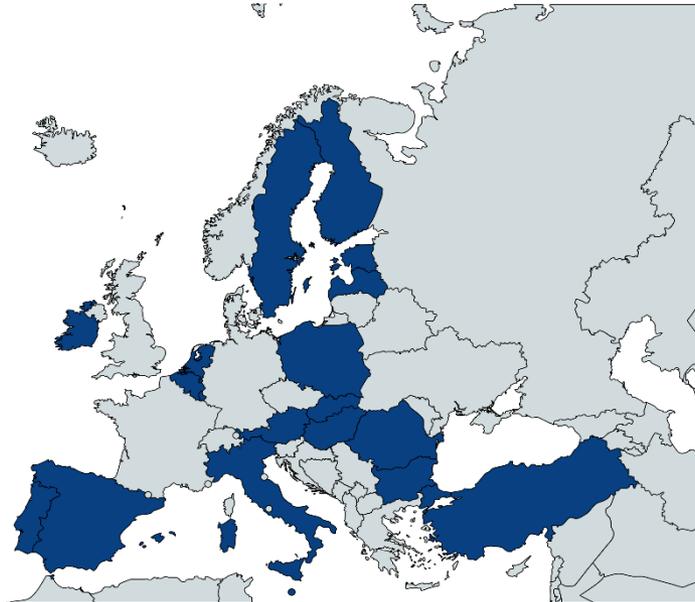
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We have received answers from 19 countries (in the case of IT, both AE and LF).



Austria



Belgium



Bulgaria



Poland



Portugal



Romania



Slovakia



Spain



Luxembourg



Sweden



Ireland



Netherlands



Malta



Hungary



Italy



Latvia



Estonia



Finland



Türkiye



## 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.

## **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.



## 6. Assessment by the LR of the applicable law to a marriage and hence the applicable matrimonial property regime

The register does not record marital status; matters on conflict of law are handled outside the Registry (by lawyers/notaries/courts).

- **Portugal**'s registries rely on statements made in the notarial deed, which must specify the applicable matrimonial regime. The registry generally accepts these declarations but retains the power to request clarification if inconsistencies arise. In some cases, conflict-of-law questions only appear at later stages, when the matrimonial regime influences ownership shares.
- **Spain** adopts a notarial verification model: the notary determines the applicable law and includes a statement to that effect in the deed. Land registries generally rely on the notary's analysis but may intervene in cases of manifest error.
- **Sweden**: The registry may request information about the applicable law if the division was made under a foreign regime, but there is no systematic control.



## 7. Practical application of the standard form for recognition

Only applicable to **Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden.**

All the answering countries among these reported **no cases** involving Article 58 (1) of Regulation (EU) 2016/1103.

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**ANNEX II**

**ATTESTATION**  
**CONCERNING AN AUTHENTIC INSTRUMENT IN A MATTER OF MATRIMONIAL PROPERTY REGIMES**  
(Articles 58(1) and 59(2) 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 **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 E-mail

2.6 Other relevant information (please specify)

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3 **Authentic instrument**

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

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(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 (\*)

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 (\*)

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 (\*)

## 8. Practical application of the adaption principle regarding cross-border divorces and rights *in rem*

Common answer: **adaptation mechanisms have not been applied** in practice in divorce-related property cases. **The** adaptation principle is theoretically possible but no known cases.

But:

- similar reasoning has been used in **succession contexts** to align foreign legal effects with domestic property concepts.
- **increased mobility** in the EU may soon make these matters more frequent.



**Spain:** “private by confession”.



## CONCLUSIONS

1. Land Registries do not verify the applicable law to marriage or matrimonial property regime (it is a notarial/judicial/lawyer's duty).
2. The division of property almost always requires a separate document (judicial or notarial), although some countries allow it to be combined with the divorce decree.
3. The adaptation principle and the use of the Regulation (EU) 2016/1103 Art. 58 (1) form is practically not applied in cross-border divorce practice, despite being contemplated theoretically.
4. The application to unmarried couples remains very heterogeneous, with some countries equating them to marriages and others treating them only as civil contracts.



COUNTRY	NATIONAL REQUIREMENTS FOR REGISTRATION OF RIGHTS IN THE LAND REGISTERS UNDER THE ECS									
	IDENTIFICATION OF ASSETS	ALL HEIRS	ALL SHARES	VALID COPY	VALIDATION OF ISSUER	LEGAL TRANSLATION	MANDATORY REGISTRATION	ADDITIONAL DOCUMENTS	CONSTITUTIVE EFFECT	TAX DOCUMENT
AUSTRIA	X	X	X <sup>1</sup>	X	X	X	X			
BULGARIA	X	X	X	X	X	X	X		X	
CYPRUS	X	X	X	X	X	X	X <sup>2</sup>			X
ESTONIA		X		X	X	X		X	X	
FINLAND	X <sup>3</sup>	X	X				X			
HUNGARY	X	X		X		X	X	X	X	
ITALY-Servizio Libro Fondiario e Catasto – Provincia Autonoma di Trento	X <sup>4</sup>	X	X	X	X	X		X		
LATVIA	X	X	X			X	X		X	
LITHUANIA	X	X	X	X	X	X			X	
MALTA	X	X	X	X	X	X <sup>5</sup>		X <sup>6</sup>		
THE NETHERLANDS		X	X	X	X	X		X <sup>7</sup>		
POLAND	X	X	X	X	X	X	X			
PORTUGAL	X	X	X	X	X		X	X <sup>8</sup>		X
ROMÂNIA The Romanian Land Registry Association	X	X	X	X		X	X			
ROMÂNIA - National Agency for Cadastre and Land Registration	X	X	X	X		X	X			
SLOVAK REPUBLIC	X	X	X	X	X	X		X		
SPAIN	X	X	X	X	X	X	X	X		X
SWEDEN	X	X	X	X			X	X		

X<sup>1</sup>- The intabulation of appartement ownership is limited to two (2) natural persons per object. If the intabulation of the EU Certificate of Inheritance would lead to more than 2 owners per object the court will ask for details.

X<sup>2</sup>- If there is a will, the Law provides for the application procedure with deadlines, if not, it is upon the 17 discretion of the heirs to submit an application. The Wills & Succession Law (Cap195), The Administration of Estate Law (Cap189), The Probates (re-sealing) Law, (Cap 192).

X<sup>3</sup>- It depends on the situation and whether the property is being divided between the heirs or not. If the registration applied for is a pro forma registration of title (a list of the heirs without any concrete division of the assets) then a specification of the property is not needed. Also, when there is only one heir who inherits all the property, there is no need for a specification of the property because the only heir is entitled to all the property. But if there are several heirs and the property is going to one of them, or all the heirs are getting a share each of the property, a specification of the property is needed and preferably a notification if an estate distribution has been done or if an estate distribution is not needed. We are though quite flexible with the ECS and try to interpret the information in the ECS in a positive way for the applicant.

X<sup>4</sup>- If not mentioned in the certificate, immovable properties can be specified in the application. The certificate must specify the hereditary shares.

X<sup>5</sup>- Translation is not always necessary.

X<sup>6</sup>- A causa mortis drafted by a Maltese Notary would be required for registration

X<sup>7</sup>- A declaration of the competence of a foreign notary, if the European Certificate of Succession was issued by a foreign notary. The declaration of the competence of the notary must be issued by the national association of notaries.

X<sup>8</sup>- If one of the heirs is a minor, we must know who represents him. If there are several heirs, it is necessary to attach a declaration signed by all the heirs. Otherwise, the Registrar will have to notify them.

# THANK YOU

