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Matrimonial property regimes



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European Judicial Network
(in civil and commercial
matters)

1 Is there a statutory matrimonial property regime in this Member State? What does it provide?

The statutory regime for property relations between spouses is governed by the Family Act (*Obiteljski zakon*), which states that property relations between spouses are governed by the provisions of the Family Act on the statutory regulation of property relations between spouses, and that if spouses have arranged their property relations through a marriage contract, their property relations will be governed by the provisions of the marriage contract.

2 How can spouses arrange their matrimonial property regime? What are the formal requirements in this case?

Spouses can arrange their matrimonial property regime through a marriage contract. The marriage contract is concluded in writing, and the spouses' signatures must be certified by a notary public.

The provisions on the management or disposal of property have legal effect if they are entered in land registers (*zemljišne knjige*), i.e. in public registers where entry is required for the acquisition of rights or where property cannot be used without such entry. Ownership rights over matrimonial property in the form of immovable property may also be registered on the basis of a proposal by both spouses containing an explicit, written and unconditional statement in which one spouse consents to registration of the property rights of the other spouse in equal parts, or otherwise if they have so agreed.

3 Are there restrictions on the freedom to arrange a matrimonial property regime?

It is prohibited to agree on the application of foreign law to property relations in a marriage contract.

One of the spouses has individual and autonomous liability for the obligations he or she assumed before the marriage, and for the obligations he or she alone assumed after the marriage, as long as they do not affect the needs of the marital union or family unit. Both spouses are jointly and severally liable with their own property and the matrimonial property for the obligations assumed by one of the spouses that relate to the current needs of the marital union and family unit. Joint and several liability also applies to obligations assumed jointly by the spouses in relation to matrimonial property.

The spouses are jointly and severally liable, in equal parts, for the current needs of the marital union and family unit and for obligations assumed jointly by them in relation to the matrimonial property, unless they have agreed otherwise.

If, in order to settle joint obligations, more has been recovered from one spouse's share of the jointly owned

matrimonial property or from that person's own property than the amount of his or her share of the debt, that spouse will be entitled to reimbursement by the other spouse of that amount from the latter's share of the matrimonial property or from the latter's own property.

4 What are the legal effects of divorce, separation or annulment on the matrimonial property?

Upon dissolution of the marriage of spouses who did not conclude a marriage contract, their property relations will be governed by a court decision pursuant to the Family Act and to acts governing obligations and proprietary relations and other property relations.

5 What are the effects of death of one of the spouses on the matrimonial property regime?

This matter is regulated by the provisions of the specific act governing inheritance law, the Inheritance Act (*Zakon o nasljeđivanju*).

6 Which authority has the competence to decide in a case relating to a matrimonial property regime?

The Municipal Civil Court (*Općinski građanski sud*) has jurisdiction in the event of a dispute regarding the division of matrimonial property upon the dissolution of a marriage.

7 What are the effects of the matrimonial property regime on legal relationships between a spouse and a third party?

The absence of consent for extraordinary works does not affect the rights and obligations of a third party acting in good faith. The spouse without whose consent the extraordinary works were carried out is entitled to compensation for any damage caused to him or her by the other spouse through these works.

For routine management tasks such as the routine maintenance, exploitation or use of the property for its regular purpose, the other spouse is deemed to have given his or her consent unless it is proven otherwise. Extraordinary works refer to extraordinary works on movable or immovable property that are entered into public registers and require the joint undertaking of the works or the written consent of the other spouse with his or her signature certified by a notary public.

8 A short description of the procedure for the division, including partition, distribution and liquidation, of matrimonial property in this Member State.

Matrimonial property is the property acquired by the spouses through work during the marital union or derived from such property.

The spouses are co-owners of the matrimonial property in equal parts, unless they have agreed otherwise.

If the spouses' property relations are not settled by mutual agreement after the dissolution of the marriage by divorce or annulment, the property relations may be settled by court decision by bringing an action for division of the property before the competent court. The partition of the property is decided by the court in such a case.

The provisions of regulations governing obligations and proprietary relations apply to matrimonial property.

9 What is the procedure and documents or information typically required for the purpose of registration of immovable property?

Ownership rights over matrimonial property in the form of immovable property may also be registered on the

basis of a proposal by both spouses containing an explicit, written and unconditional statement in which one spouse consents to registration of the property rights of the other spouse in equal parts, or otherwise if they have so agreed.

On the document containing the explicit, written and unconditional statement, the signature of the spouse who consents to the registration of the property rights of the other spouse must be certified by a notary public.

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