

Rome IV (formerly Brussels III)

The EU is still negotiating the terms of the Succession Regulation that will provide new private international law (PIL) within the EU. The UK and Ireland have not currently opted in.

On March 16, 2011 the EU Commission published its proposals for Regulations dealing with the PIL on the effects on property rights of marriage and registered partnerships.ⁱ

There are two proposed Regulations: one on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimesⁱⁱ and the other on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.ⁱⁱⁱ

The proposals deal with the usual PIL questions:

- Which court has jurisdiction to wind up a matrimonial property regime or the property consequences of a registered partnership?
- Which is the applicable law?
- Is the decision of the court of a Member State recognised and enforced in another Member State?

Although, the UK and Ireland may not opt in, the Regulations will give other EU states jurisdiction over EU property. It will be vital to deal with choice of law questions in marriage contracts and pre nuptial agreements.

The proposals are gender neutral but the different treatment of marriage and of registered partnerships should be carefully noted. It would seem that the proposals in relation to matrimonial property regimes are likely to be uncontroversial, but the issues for registered partnerships may be subject to amendment or delay.

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ⁱ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Bringing legal clarity to property rights for international couples
http://ec.europa.eu/justice/policies/civil/docs/com_2011_125_en.pdf

ⁱⁱ http://ec.europa.eu/justice/policies/civil/docs/com_2011_126_en.pdf

ⁱⁱⁱ http://ec.europa.eu/justice/policies/civil/docs/com_2011_127_en.pdf