



## Law applicable to divorce and legal separation

### General information

The European Union has set itself the objective of developing an area of freedom, security and justice, by adopting measures relating to judicial cooperation in civil matters having cross-border implications. At the same time, increasing the mobility of citizens within the internal market calls for more flexibility and greater legal certainty.

📄 [Council Regulation \(EU\) No 1259/2010](#) of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (called Rome III Regulation) provides citizens with appropriate outcomes in terms of legal certainty, predictability and flexibility, protects weaker partners during divorce disputes and prevents 'forum shopping'. This also helps avoiding complicated, lengthy and painful proceedings.

More specifically, Regulation (EU) No 1259/2010 allows international couples to agree in advance which law would apply to their divorce or legal separation as long as the agreed law is the law of the Member State with which they have a closer connection. In case the couple cannot agree, the judges can use a common formula for deciding which country's law applies.

This Regulation does not, on the other hand, apply to the following matters: the legal capacity of natural persons; the existence, validity and recognition of a marriage; the annulment of a marriage; the name of the spouses; the property consequences of the marriage; parental responsibility; maintenance obligation and trusts and successions. It also does not affect the application of Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

It is an instrument implementing enhanced cooperation between the participating Member States. The enhanced cooperation allows a group of at least nine Member States to implement measures in one of the areas covered by the Treaties within the framework of the Union's non-exclusive competences. According to Article 331 TFEU, the non-participating Member States keep the right to join the established enhanced cooperation in progress.

The European e-Justice Portal provides you with information concerning the application of the Regulation.

### Enhanced Cooperation

On 12 July 2010, the Council adopted Decision 2010/405/EU authorizing enhanced cooperation in the area of the law applicable to divorce and legal separation between Belgium, Bulgaria, Germany, Spain, France, Italy, Latvia, Luxembourg, Hungary, Malta, Austria, Portugal, Romania and Slovenia.

As a consequence, the mentioned 14 participating Member States adopted 📄 [Council Regulation \(EU\) No 1259/2010](#), which became applicable on 21 June 2012.

On 21 November 2012, the Commission adopted 📄 [Decision 2012/714/EU](#) confirming the participation of Lithuania in enhanced cooperation in the area of the law applicable to divorce and legal separation. That Decision foresees that Regulation (EU) No 1259/2010 shall apply to Lithuania from 22 May 2014.

On 27 January 2014, the Commission adopted 📄 [Decision 2014/39/EU](#) confirming the participation of Greece in enhanced cooperation in the area of the law applicable to divorce and legal separation. That Decision foresees that Regulation (EU) No 1259/2010 shall apply to Greece from 29 July 2015.

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