

Questionnaire

(E)

About this Questionnaire

1. Couples cohabiting outside marriage may face legal uncertainties when they leave the State where the registered partnership or unmarried cohabitation was formed and become subject to a foreign legal system that does not necessarily recognise their status in relation to one another, or in relation to their (adopted) children, or third parties. Even if they do not leave the State wherein their relationship originated, issues may arise abroad concerning the validity or effects of their relationship or aspects thereof.

2. The Hague Conference on Private International Law (“Hague Conference”) has been monitoring the legal situation of cohabiting couples and registered partners, focusing on the private international law implications, since 1987. In March 2015, the Permanent Bureau presented an “[u]pdate on the developments in internal law and private international law concerning cohabitation outside marriage, including registered partnerships” (“2015 Update on cohabitation outside marriage”)¹ at the Council on General Affairs and Policy of the Hague Conference (“the Council”). The Council subsequently asked the Permanent Bureau to prepare a Questionnaire to seek further information on private international law issues relating to cohabitation outside marriage, including registered partnerships. It requested that a report on the results from this survey be presented to the Council in 2017.²

3. In line with the mandate provided by the Council, the **objective** of this Questionnaire is to gather information from various national legal systems about aspects of internal and private international law relating to cohabitation outside marriage (e.g., information about the recognition of partnerships registered abroad or the applicable law in cross-border situations). The information gathered will facilitate a better understanding of the issues that registered partners and unmarried cohabitants may face in a cross-border situation.

4. Terms used to describe cohabitation outside marriage differ widely.³ For this reason, and in order to facilitate the survey, it is suggested that the **terminology** as described in the “2015 Update on cohabitation outside marriage” be applied in this Questionnaire:⁴

- The term **“cohabitation outside marriage”** encompasses “unmarried cohabitation” and “registered partnerships”.
- The term **“registered partnerships”** refers to a form of cohabitation outside marriage which, under the domestic law of the State where it originates, requires the fulfilment of certain formalities, specifically registration in a central registry. The term as used here has a wide meaning and thus also covers, *inter alia*, “domestic partnerships”, “civil partnerships”, “civil unions”, “permanent couple unions”, “statutory cohabitation”, registered “de facto relationships” and “civil

¹ Prel. Doc. No. 5 of March 2015 for the attention of the Council on General Affairs and Policy of March 2015, available on the Hague Conference website at < www.hcch.net > under “Projects” then “Legislative Projects” and “Cohabitation outside marriage”. This document was completed pursuant to the mandate given by the Council in April 2013, which invited the Permanent Bureau to continue to follow developments in this area and, resources permitting, to update its “Note on developments in internal law and private international law concerning cohabitation outside marriage, including registered partnerships”, Prel. Doc. No. 11 of March 2008 for the attention of the Council on General Affairs and Policy of April 2008.

² See the Conclusions and Recommendations adopted by the Council of 2015 (24-26 March 2015), para. 10, available on the Hague Conference website at < www.hcch.net > under “Governance” then “Council on General Affairs and Policy”.

³ For an explanation of the terminology, see, e.g., Prel. Doc. No. 11 of 2008 (*op. cit.* note 1), paras 10 *et seq.*, paras 18 *et seq.* and paras 72 *et seq.*

⁴ See Prel. Doc. No. 5 of March 2015 (*op. cit.* note 1), paras 7-10.

pacts of solidarity". Individuals in a registered partnership are referred to as "registered partners".

- The term "**unmarried cohabitation**" refers to *concubinage* or *de facto* union without this union having been registered with an authority, formed by the parties' actual cohabitation.⁵ Individuals living in unmarried cohabitation are referred to as "unmarried cohabitants".

5. The **structure** of the Questionnaire reflects the situation that most legal systems which allow for the registration of a partnership draw a distinction between unmarried cohabitation and registered partnerships. For this reason, the questions for each of these (legal) institutions are addressed in different sections of the Questionnaire accordingly (Part A: Registered Partnerships, Part B: Unmarried Cohabitation).

6. The Questionnaire further distinguishes between aspects that are **purely domestic** – aspects of internal law – and those that have an **international connection** – issues of private international law.

7. Moreover, while certain questions are **for all States to complete**, others are **relevant only to specific States**, *e.g.*, those whose internal domestic law provides for the possibility to register a partnership or have a special regime for cohabitation (or attach certain legal effects to cohabitation). Whether a question is to be answered by all or only specific States is indicated at the beginning of each question.

8. Furthermore, if the answer to any of the questions depends on the relevant **type of registered partnership or unmarried cohabitation** (*e.g.*, same-sex or opposite-sex), Members and non-Member States are kindly requested to answer the questions for each of the different types.

9. Finally, while the focus of the Questionnaire lies on the **legal aspects** of cohabitation outside marriage, the final section of the Questionnaire (Part C) asks for **statistical data** which Members and non-Member States are kindly requested to provide to the extent available.

Instructions for completion

10. In this Questionnaire the term "State" is used to cover any jurisdictional unit having competence to regulate the subject matter. Members and non-Member States are invited to complete the Questionnaire for each jurisdictional unit, if applicable.

11. Members and non-Member States are kindly invited to complete the Questionnaire (in either English or French) at their earliest convenience, but in any event by no later than **Friday 16 September 2016**.

12. In order to allow the Permanent Bureau to extract parts of the Questionnaire for a compilation and analysis of the responses, please **use this Word version** of the document, and please **do not return a PDF version** of the completed Questionnaire.

13. The Permanent Bureau would also appreciate it if a copy of, or a link to, any **legislation** mentioned in the response (preferably in English or French) could be provided, as well as relevant **case law** on private international law issues in relation to cohabitation outside marriage, including registered partnerships, if available.

14. The completed Questionnaire, as well as additional information on legislation and case law, should be sent by e-mail to < **secretariat@hcch.net** > to the attention of Ms Kerstin Bartsch, Senior Legal Officer, with the subject line: "Questionnaire – Cohabitation outside marriage".

⁵ Since in most legal systems this term is not defined, this is simply a working definition. For an explanation of the terminology, see Prel. Doc. No 11 of 2008 (*op. cit.* note 1), paras 10 *et seq.*

Publication of responses

15. The Permanent Bureau will place all responses to this Questionnaire on the Hague Conference website < www.hcch.net > unless expressly asked not to do so. A report summarising the results of this consultation will also be made available on the Hague Conference website.

Identification

Your contact information:

Name of Member or non-Member
State (or territorial unit, where applicable): [Republic of Latvia](#)

For follow-up purposes:

Name of contact person: [Ms Maija Laure](#)
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PART A: REGISTERED PARTNERSHIPS

The term "**registered partnership**" refers to a form of cohabitation outside marriage which, under the domestic law of the State where it originates, requires the fulfilment of certain formalities (*i.e.*, registration). The term as used here has a wide meaning (see *supra* para. 4).

A.1. INTERNAL LAW

Formation:

1. For all States:

- a. Does the law of your State provide for the possibility of registering partnerships?

Yes

No

- b. If the answer is "No", is the introduction of registered partnerships being envisaged or studied by your State?

[Registered partnership issue has been repeatedly raised in recent years. There are several research provided by Latvian non-governmental organizations. Also amongst lawyers, experts and practitioners of private law proposals on the legal order of partnership and the need for amendments to the national laws and other legislative acts has been discussed. In 2008 the Ministry of Justice signed a contract with Eversheds Bitans Law Office commissioned a legal study to identify the existing issues in the sphere of male/female unregistered partnerships. As a result a detached legal study on 'Male and female partnership legislation in Europe and Latvia' was made. The study offers possible solutions to the identified issues in order to create an applicable legal regime for unregistered partnerships in the Latvian legal system. But most of the existing research data in the sphere of male/female registered partnerships still comes from international sources, and international researches.](#)

[Since 2013 at Latvian society initiatives platform has placed an invitation to subscribe for "Legal protection of non-marital relationship" but still now it has not gained sufficient support. The majority opinion is that current legal framework is sufficient to protect the couples. Unmarried partners in Latvia can use other legal means outside of family law \(e.g., they can form partnerships under the law of liability, acquire common ownership over property according to the law of property, make wills according to the law of succession\) and a special regulation \(e.g., registered partnership law\) is not necessary.](#)

2. *For States that provide for the possibility to register a partnership:*

- a. Who can register a partnership in your State?
- (1) Only opposite-sex couples
 Yes
 No
- (2) Only same-sex couples
 Yes
 No
- (3) Both opposite-sex and same-sex couples
 Yes
 No
- b. If the answer is "Yes" to questions (1) or (2), does your State envisage or study a change in the existing partnership regime? (If yes, please explain.)
[Please insert text here](#)

3. *For States that provide for the possibility to register a partnership:*

- a. What are the requirements regarding the formation of a registered partnership? (If the answer depends on the relevant type of registered partnership (e.g., same-sex or opposite-sex), please answer the question for each of the different types.)
- In particular, does the law of your State include the following requirements?
- (1) Neither of the partners must be married or united in a partnership with a third person.
[Please insert text here](#)
- (2) The partners must not be related by marriage, adoption or blood. (In the latter case, what is the accepted degree of blood relationship?)
[Please insert text here](#)
- (3) Both partners must attain a minimum age in order to form a partnership. (If yes, what is the minimum age?)
[Please insert text here](#)
- (4) Both partners must have the mental capacity to consent to the partnership.
[Please insert text here](#)
- (5) Both partners must consent freely to the partnership.
[Please insert text here](#)
- (6) Please state any other requirements:
[Please insert text here](#)
- b. Does your State envisage or study any changes regarding the present requirements? (If yes, please explain.)
[Please insert text here](#)

Effects:

4. *For States that provide for the possibility to register a partnership:*

- a. What **rights** and **obligations** do registered partners have under the internal law of your State?

Please answer this question by taking into account the following subject matters and provide the legal basis (*i.e.*, legal rules or case law). (If your answer depends on the relevant type of registered partnership (*e.g.*, same-sex or opposite-sex), please answer for each of the different types.)

- (1) relationship between partners, *e.g.*,
- (a) personal obligations and duties of partners (*e.g.*, duty of care of partners):
[Please insert text here](#)
 - (b) maintenance obligations:
[Please insert text here](#)
 - (c) property
[Please insert text here](#)
 - (d) inheritance:
[Please insert text here](#)
 - (e) other(s):
[Please insert text here](#)
- (2) children, *e.g.*,
- (a) parental status:
[Please insert text here](#)
 - (b) parental responsibility:
[Please insert text here](#)
 - (c) child support:
[Please insert text here](#)
 - (d) adoption:
[Please insert text here](#)
 - (e) inheritance:
[Please insert text here](#)
 - (f) assisted reproduction:
[Please insert text here](#)
 - (g) surrogacy:
[Please insert text here](#)
 - (h) other(s):
[Please insert text here](#)
- (3) other financial matters, *e.g.*,
- (a) pensions, including social security benefits:
[Please insert text here](#)

(b) other(s):
Please insert text here

- b. Does your State envisage or study any changes in respect of these effects? (If yes, please explain.)
Please insert text here

Annulment or Dissolution:

5. *For States that provide for the possibility to register a partnership:*

- a. Consider the situation where a couple has registered their partnership in your State.

Does your State have a special procedure for **annulment** and / or **dissolution** of the partnership? Please describe the judicial or administrative process. (If your answer depends on the relevant type of registered partnership (*e.g.*, same-sex or opposite-sex), please answer for each of the different types.)

Please insert text here

- b. Does your State envisage or study any changes regarding the conditions or procedures for annulment or dissolution of a registered partnership? (If yes, please explain.)

Please insert text here

A.2. PRIVATE INTERNATIONAL LAW

Formation (in situations with an international element):

6. *For States that provide for the possibility to register a partnership:*

- a. Does the law of your State provide for the possibility of registering a partnership if:

- (1) One partner is a national of your State and the other partner is not?

Yes

If yes, are there further requirements (*e.g.*, regarding habitual residence)?

Please insert text here

No

- (2) Neither of the partners are nationals of your State?

Yes

If yes, are there further requirements (*e.g.*, regarding habitual residence)?

Please insert text here

No

- (3) One partner is habitually resident in your State and the other partner is not

Yes

If yes, are there further requirements (*e.g.*, regarding nationality)?

Please insert text here

No

- (4) Both partners have their habitual residence in a State other than your State?

Yes

If yes, are there further requirements (*e.g.*, regarding nationality)?

Please insert text here

No

- b. If the response to any of these questions is "Yes":
- (1) Does the internal law of your State govern the **formal requirements for registration** in your State, or does, under the conflict of law rules of your State, the internal law of another State apply and, if so, what law(s)?
Please insert text here
 - (2) Does the internal law of your State govern the **substantive requirements for registration** in your State, or, does, under the conflict of law rules of your State, the internal law of other State(s) apply and, if so, what law(s)?
Please insert text here

Recognition of the validity and effects of a partnership registered abroad:

7. For all States:

- a. Would the **validity** of a partnership registered abroad be **recognised** in your State?
- Yes
- Yes, except for situations where there is a substantial link to my State.

Please indicate what connecting factor(s) would prevent recognition (*e.g.*, no recognition if one or both partners are nationals of or habitually resident in your State).

Please insert text here

- Yes, with exceptions (*e.g.*, where there is no substantial connection of partners with my State, or: no connection between the partners and the State of registration).

Please provide details of any such exceptions to recognition by your State.

Please insert text here

- No

- b. Would any of the following **effects** of the partnership registered abroad be **recognised** in your State?

- (1) relationship between partners, *e.g.*,
 - (a) personal obligations and duties of partners (*e.g.*, duty of care of partners):

No. In Latvia only marriage creates a duty on the part of a husband and a wife to be faithful to each other, to live together, to take care of each other and to jointly ensure the welfare of their family (Article 84 of Latvian Civil Law). As there is no special regulation in Latvia which obliges to recognize relationships between partners registered abroad, also no regulation which obliges to recognize duties or obligation of such partners. In such situations the general legal order on obligation rights should be applicable and parties may try to prove their rights on another basis, according to principle that each party must prove the facts upon which they base their claims or objections.

- (b) maintenance obligations:

In general maintenance obligations in Latvia applies only of spouses, but according to Council Regulation (EC) No 4/2009, decisions on maintenance obligations given in a EU Member State shall be recognized in Latvia. However the recognition and enforcement of a decision on maintenance under Regulation No 4/2009 shall not in any way imply the recognition of the relationship of partners.

- (c) property:

No. As there is no special regulation in Latvia which obliges to recognize relationships between partners registered abroad, also no regulation which organize property rights between such partners. In Latvia joint property rights applies only of spouses. In outside marriage situations the general legal order on obligation rights (*e.g.* about claims arising from unjust enrichment) should be applicable and parties may try to

prove their rights on another basis.

(d) inheritance:

In general rights to inherit in Latvia have only spouses, but according to Regulation (EU) No 650/2012 of the European Parliament and of the Council, decisions on inheritance given in a EU Member State shall be recognized in Latvia.

(e) other(s):

Please insert text here

(2) children, *e.g.*,

(a) parental status:

Yes, if the parental status has been obtained on the basis of child descent. In Latvia the descent of a child born outside of a marriage from a father shall be based on the determination of paternity by voluntary acknowledgement of paternity or by the determination thereof by a court proceeding (Article 154 of Latvian Civil Law).

(b) parental responsibility:

Yes. There is no importance of status of the child's parents. Obligation of parental responsibility is based on fact that child is under the custody of his or her parents (Article 177 of Latvian Civil Law).

(c) child support:

Yes. If child is under custody of his or her parents, they have obligation to give support (Article 177 of Latvian Civil Law). Children born out of wedlock are not discriminated against based on the status of their parents.

(d) adoption:

In Latvia it is prohibited to persons who are not married to each other, adopt one and the same child (Article 166 of Latvian Civil Law).

(e) inheritance:

Yes. Intestate succession rights shall be based on adoption or kinship. Kinship originates not only by birth within a lawful marriage, but also with the acknowledgement of paternity or the determination thereof by a court proceeding (Article 398 and 399 of Latvian Civil Law).

(f) assisted reproduction:

The mother of a child shall be recognised the woman who has given birth to the child (Article 146 of Latvian Civil Law) but descent of a child born outside of a marriage from a father shall be based on the determination of paternity by voluntary acknowledgement of his paternity or by the determination thereof by a court proceeding (Article 154 of Latvian Civil Law). In Latvia it does not matter that assisted reproduction was used.

(g) surrogacy:

There is no special regulation in Latvia which organise surrogacy and it is not allowed in Latvia.

(h) other(s):

Please insert text here

(3) other financial matters, *e.g.*,

(a) pensions, including social security benefits:

In the social sphere the term "family" is used in wider (see more at part B under 14. b. of this questionnaire) and although the fact of registered partnerships automatically would not give the right to social assistance of both partners, it could serve as evidence to existence of common family. While in case of the death of pensioner only surviving spouse have right to receive pension, which have not been disbursed up to the death of the pensioner (Article 37 of Law "On State Pensions").

It should be noted, that however the term "family" sometimes is

used in wider, it not includes same-sex couples.

(b) other(s):

There is only one normative act in Latvia in which registered partnerships are mentioned. According to Point 4.2. of Republic of Latvia Cabinet Regulation No. 675 "Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members" a partner with whom the Union citizen has a registered partnership is recognized as extended family member of a Union citizen and may pretend to more favourable conditions of entry and residence in the Republic of Latvia. But at the same regulation it is emphasizes that the term "partner" shall be used to safeguard the rights provided for in mentioned regulation and shall not cover the recognition of any such partnership, which has been the basis for granting the right of entry or residence.

(4) Would the registered partnership constitute an impediment to the conclusion or formation by one of the partners of a marriage or a new partnership with a third person?

Yes

No

(5) Would the surname declared by the partners upon the registration of their partnership be recognised in your State?

Yes

No

c. If your response to a. is "Yes" or "Yes, except for situations where there is a substantial link to my State", what are the **requirements for recognition** of the **validity** of the registered partnerships?

[Please insert text here](#)

In particular, does the law of your State require any of the following?

(1) The registered partnership must be valid in accordance with the internal law or conflict of law rules of the State in which registration took place.

Yes

No

(2) There is a civil status document proving the (existence and) validity of the registered partnership.

Yes

No

(3) Neither of the partners is married or united in a partnership with a third person.

Yes

No

(4) The partners are not related by marriage, adoption or blood. (In the latter case, what is the accepted degree of blood relationship?)

Yes

No

[Please insert text here](#)

(5) Both partners had attained a minimum age when they formed the partnership.

Yes

No

- (6) Both partners had the mental capacity to consent to the partnership.
- Yes
- No
- (7) Both partners had consented freely to the partnership.
- Yes
- No
- (8) The effects of the partnership under the applicable law must be similar to those of a marriage:
- Yes
- No
- (9) The effects of the partnership granted in the State where the partnership was registered should not exceed the effects granted for registered partnerships under your State.
- Yes
- No
- Not applicable (My State does not provide for registration of a partnership.)
- (10) Any other requirements for the recognition of the (existence and) validity of the registered partnership (please explain):
- [Please insert text here](#)
- (11) May or must recognition of the (existence or) validity of a registered partnership or its effects be refused if this recognition would be manifestly contrary to public policy? If yes, under which circumstances?
- Yes
- [Please insert text here](#)
- No

- d. Would your reply to the previous questions be different when a question regarding the validity or effects of a registered partnership arises as a **preliminary issue** in the context of another question of private international law before the authorities of your State (*e.g.*, about maintenance or inheritance)?

[Maintenance obligations of registered partners from EU should apply in Latvia according to conditions of Council Regulation \(EC\) No 4/2009. Right to inherit to partners from EU should recognise according to conditions of Regulation \(EU\) No 650/2012 of the European Parliament and of the Council.](#)

Recognition of the annulment or dissolution of a partnership registered abroad:

8. [For all States:](#)

Consider the situation where the partners have registered their partnership in State X. Subsequently, their partnership has been dissolved or annulled in that State or in a third State.

Would the **annulment** or **dissolution** of the partnership be **recognised** in your State? If so, under what conditions?

Yes

[Please insert text here](#)

No

Please insert text here

- Not applicable (My State would not recognise the validity or certain effects of the partnership.)

9. *For States that provide for the possibility to register a partnership:*

Consider the situation where partners have registered their partnership in your State. Subsequently the partnership has been dissolved or annulled in a *foreign* State. Would that **dissolution** or **annulment** be recognised in your State? If so under what conditions?

- Yes

Please insert text here

- No

Please insert text here

Jurisdiction:

10. *For States that provide for the possibility to register a partnership:*

- a. Please state any specific rule applying in your State concerning the **jurisdiction** of the authorities of your State regarding the **validity** of

- (1) a partnership registered in your State.

Please insert text here

- (2) a partnership registered in a foreign State.

Please insert text here

- b. Please state any specific rule applying in your State concerning the **jurisdiction** of the authorities of your State regarding the **annulment** and **dissolution** of

- (1) a partnership registered in your State.

Please insert text here

- (2) a partnership registered in a foreign State.

Please insert text here

Applicable law (conflict of laws):

11. *For States that provide for the possibility to register a partnership:*

- a. Please state any specific conflict of law rule(s) applying in your State concerning the validity or any of the effects, or the dissolution or annulment of a registered partnership.

Please insert text here

- b. In particular, please explain your State's approach to determine the applicable law, *e.g.*, application of, exclusively, domestic law to the effects of the partnership; application of the law of the common habitual residence of the partners, application of the law where the partnership was registered (*lex loci registrationis* rule). (See Prel. Doc. No 5 of March 2015, paras. 49 *et seq.*)

Please insert text here

12. *For States that provide for the possibility to register a partnership:*

Does your State envisage or study any changes in relation to the conflict of law rules and other private international law aspects of registered partnerships (*e.g.*, in relation to the formation of a partnership, the recognition of the validity and effects of a partnership registered abroad or the recognition of the annulment or dissolution of a partnership)? (If yes, please explain.)

Please insert text here

Legal and practical problems:

13. For all States:

- a. Do you know of any legal and / or practical problems that have arisen in your State in the context of registered partnerships where there are international elements involved? If so, please describe briefly.

Still now, there are no registered concrete problems that have arisen. Potential risk pose that *e.g.*, partner`s property rights are not regulated in Latvia and these rights partners may lose after moving to Latvia.

There are registered situations, where Latvian citizens are asking to certify the single status of them (including information that person is not in registered partnerships in Latvia) to be able to register a partnerships in a foreign country (*e.g.* in Luxemburg). As there is no such data in Latvia collected, it is not possible to get such official certification from data basis. Instead, certification only about relevant family status is handed out.

In general, it has been observed that Latvian citizens are informed about the potential risks, but there are also registered questions from citizens about partnerships registered in other State consequences in Latvia.

- b. In particular, do you know of any situation where registered partners lost rights they had acquired under the law of the State where they had registered their partnership after moving to another State? If so, please describe briefly.

There are no concrete examples from practice of Latvian Ministry of Justice to describe.

PART B: UNMARRIED COHABITATION

The term “**unmarried cohabitation**” refers to *concubinage* or *de facto* union without this union having been registered with an authority, formed by the parties’ actual cohabitation (see *supra*, para. 4).

B.1. INTERNAL LAW

Legal regime and effects:

14. For all States:

- a. Does the national law of your State establish a **specific legal regime** for cohabitation? (If yes, please explain.)

Yes

Please insert text here

No

- b. If not, does the national law of your State attach **certain legal effects** to (aspects of) cohabitation? (If yes, please explain.)

Yes

Although cohabitation is not regulated in Latvian law, there are some separate legislative acts in which the legislature has regulated the legal status of two persons living together, *e.g.* according to Article 12 Part 5 of Latvian Criminal Procedure Law the person with whom the relevant natural person is living together and with whom he or she has a common (joint) household (immediate family), has the right to request that a criminal case

does not include information regarding private life, commercial activities, and financial situation of such person. Immediate family also may become a victim in criminal proceedings if a primary person dies (Article 95 Part 3). In general immediate family has the same rights in criminal procedure as people living in a legal marriage. According to Article 264 Part 3 of Latvian Administrative Violations Code a witness has the right to not testify about the person with whom the witness has been in an unregistered spousal relationship, or about the person with whom the witness has a joint (single) household. Article 250.44 of Latvian Civil Procedure Law provides that application of provisional protection against domestic violence may submit also person who are living or have lived in a common household; people who have or are expecting a common child regardless of whether these people have ever been married or lived together; and people between whom there are or have been close personal or intimate relationships.

In the social sphere the term "family" is used in wider and usual contain also ties when people live together without entering into marriage. Senate of the Supreme Court of the Republic of Latvia, Department of Administrative Cases at point 10 of a judgment of on 27 July 2010 stated that people (man, woman and their common children) create a common family, because within the cohabitation two sons had been born, the family had common family budget and expenses, and all the members of the family shared psychological and emotional links and decided that refusal of social assistance to one of the people in a family for an obviously formal reason was impermissible (including the reason that people have not formally registered their marriage).

As seen, in certain cases when there is a reference in the legal provision to family or members of the family, this explanation of the concept of family also covers unmarried persons living in a union, but it is important to take into account that legislature has made decision to regulate the legal status of two people living together only in certain legislative acts, and not to equate partnerships to the concept of marriage. Where the term "marriage" is used, courts authorities have no competence to equate the actual cohabitation of two people to registered marriage or to give the cohabiting partner the same rights as a spouse (Senate of the Supreme Court of the Republic of Latvia Department of Administrative cases judgement of 28 February 2008, point 12.1. and 12.2.). Also it should be noted, that however the term "family" sometimes is used in wider, it not includes same-sex couples.

According to Point 4.1. of Republic of Latvia Cabinet Regulation No. 675 "Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members" a partner with whom the Union citizen has a has a relationship lasting for at least two years or a partner with whom the Union citizen has a registered partnership is an extended family member of a Union citizen and may pretend to more favourable conditions of entry and residence in the Republic of Latvia.

No

15. *For States that establish a specific legal regime for cohabitation or which attach certain legal effects to (aspects of) cohabitation:*

What **rights** and **obligations** do unmarried cohabittees have under the law of your State? Are there any requirements which have to be fulfilled before such rights or obligations arise?

Please answer both questions by taking into account the following subject matters and provide the legal basis (*i.e.*, legal rules or case law). (If the answer depends on the type of unmarried cohabitation (*e.g.*, whether the couple is of the same-sex or opposite-sex), please answer the question for each type):

- a. relationship between unmarried cohabittees, *e.g.*,
- (1) personal obligations and duties of unmarried cohabittees (*e.g.*, duty of care of unmarried cohabittees):

No. In Latvia only marriage creates a duty on the part of a husband and a wife to take care of each other.

- (2) maintenance obligations:

No. In Latvia maintenance obligations applies only of spouses, but general law of obligations does not prohibit partners to mutually agree about mentioned obligation.

(3) property relations:

No. There is no regulation in Latvia which organize property rights between unmarried partners. In Latvia property rights and distribution of property are regulated only between spouses. In outside marriage situations the general legal order on obligation rights (e.g. about claims arising from unjust enrichment) should be applicable and parties may try to prove their rights on other (e.g. joint ownership) basis.

(4) inheritance:

No. In Latvia if there is not a will or inheritance contract, a unmarried partner does not have right of inheritance (Article 391 of Latvian Civil Law).

(5) other(s):

b. children, e.g.,

(1) parental status:

Yes, if the parental status has been obtained on the basis of child descent. In Latvia the descent of a child born outside of a marriage from a father shall be based on the determination of paternity by voluntary acknowledgement of paternity or by the determination there of by a court proceeding (Article 154 of Latvian Civil Law).

(2) parental responsibility:

Yes. There is no importance of status of the child`s parents. Obligation of parental responsibility is based on fact that child is under the custody of his or her parents (Article 177 of Latvian Civil Law).

(3) child support:

Yes. If child is under custody of his or her parents, they have obligation to give support (Article 177 of Latvian Civil Law). Children born out of wedlock are not discriminated against based on the status of their parents.

(4) inheritance:

Intestate succession rights shall be based on adoption or kinship. Kinship originates not only by birth within a lawful marriage, but also with the acknowledgement of paternity or the determination thereof by a court proceeding (Article 398 and 399 of Latvian Civil Law).

(5) adoption:

In Latvia it is prohibited to persons who are not married to each other, adopt one and the same child (Article 166 of Latvian Civil Law).

(6) assisted reproduction:

Yes. In Latvia also unmarried heterosexual couple can use assisted reproduction. According to Part 2 of Article 13 of Sexual and Reproductive Health Law medical impregnation (in other words assisted reproduction) is carried out upon the request of a heterosexual couple or a woman on the basis of a written application submitted to the medical treatment institution by that heterosexual couple or the woman.

(7) surrogacy:

There is no special regulation in Latvia which organise surrogacy and it is not allowed in Latvia.

(8) other(s):

c. other financial matters, e.g.,

(1) pensions, including social security benefits:

Where the legislator has not made a list of certain persons who are entitled to social support, the wider definition of a family member should be applicable and also unmarried partners may pretend to social support, e.g. according to Article 74 Point 4 of Latvian Labour Law an employer has a duty to pay out the remuneration if an employee does not perform work for not more than two working days due not only to the death of his

or her spouse, but also other close family member. According Article 37 Part 2 of Law "On State Pensions" in case of the death of a recipient of pension, a funeral allowance in the amount of two months of pension shall be disbursed to his or her family or to the person who has undertaken to organise the funeral. Mentioned allow to conclude that to the pension may qualify as well a partner.

(2) other(s):

See at part B under question 14. b. of this questionnaire.

B.2. PRIVATE INTERNATIONAL LAW

Recognition of the validity of a special legal regime for, or of certain legal effects of, unmarried cohabitation:

16. *For all States:*

Consider the situation where a couple has acquired certain rights and obligations under a special legal regime for unmarried cohabitation in State X, or the couple has acquired certain rights and obligations because the laws of State X attach certain legal effects to their unmarried cohabitation.

a. Would the **validity** of the legal regime for unmarried cohabitation of State X be recognised in your State?

Yes

No

b. Would any of the **effects** which the unmarried cohabitation has under the laws of State X be recognised in your State?

Yes

No

c. If the answer to a. or b., is "yes", what are the requirements (*substantive and / or formal* requirements) for the recognition of the legal regime or of its effects?

Please insert text here

d. Would the reply to the previous questions be different when a question regarding the validity or effects of the unmarried cohabitation arises as a **preliminary issue** in the context of another question of private international law before the authorities of your State (*e.g.*, about maintenance or inheritance)?

Maintenance obligations of partners from EU should be applied in Latvia according to conditions of Council Regulation (EC) No 4/2009. Right to inherit to partners from EU should recognise according to conditions of Regulation (EU) No 650/2012 of the European Parliament and of the Council.

Jurisdiction:

17. *For States that provide for a specific legal regime for cohabitation or which attach certain legal effects to (aspects of) cohabitation:*

Please state any specific rules applying in your State concerning the **jurisdiction** of the authorities of your State regarding the specific legal regime for cohabitation or its effects.

Please insert text here

Applicable law (conflict of laws):

18. *For States that provide for a specific legal regime for cohabitation or which attach certain legal effects to (aspects of) cohabitation:*

Please state any specific conflict of law rules applying in your State concerning the legal regime for cohabitation or concerning the legal effects attached to (aspects of) cohabitation.

Please insert text here

Legal and practical problems:

19. For all States:

- a. Do you know of any legal and / or practical problems that have arisen in your State in the context of unmarried cohabitation where there are international elements involved? If so, please describe briefly.

Still now, there are no registered concrete problems that have arisen.

- b. In particular, do you know of any situation where unmarried cohabitants lost rights they had acquired under the law of the State where they had cohabited after moving to another State? If so, please describe briefly.

There are no concrete examples in Latvian Ministry of Justice from practice to describe.

Future developments:

20. For all States:

Are any developments foreseen in your national law, e.g., modification or introduction of a legal regime for cohabitation or of certain legal effects of cohabitation? Are any developments foreseen in relation to private international law aspects of cohabitation outside marriage?

Still now, the legislator has decided to settle the legal status of cohabiting partners only in certain legal provisions (as mentioned an answer 14th b and 15th c (1) of this questionnaire) and not to regulate cohabitation as concept. Unmarried partners in Latvia can use other legal means outside of family law, furthermore the general law of obligations does not prohibit partners from entering into an agreement, for example, to adjust their property relations. According to previously mentioned, majority opinion is that current legal framework is sufficient to protect also unmarried couples and a special regulation is not necessary.

PART C: Statistics

21. For all States:

Please provide any statistics relating to registered partnerships and unmarried cohabitation where applicable, if available, e.g.,

- a. the (estimated) number of registered partners in your State and any trend in this regard;

There are no such statistics available in Latvia.

- b. the (estimated) number of couples who are cohabiting without being married in your State and any trend in this regard:

Such statistic in Latvia is not collected.

- c. the (estimated) birth / adoption / surrogacy rates for registered partners and unmarried cohabitants in your State and any trends in this regard:

According to the Central Statistical Bureau of Latvia's database of information, in 2015 21,979 children were born in total of which 9,122 were born outside marriage. Although birth rate is growing in Latvia (for example in 2012 19,897 children were born; in 2013 20,596 children were born; in 2014 21,746 children were born), the rate of children born outside marriage not so progressive (for example, in 2012 8,951 children outside marriage were born; in 2013 9,190 children outside marriage were born; in 2014 9,562 children outside marriage were born, but in 2015 only 9,122 children outside marriage were

born).

- d. the (estimated) number of registered partnerships that have been annulled or dissolved in your State:

It is not possible to annul or dissolve partnerships in Latvia.

- e. the (estimated) number of international couples (*i.e.*, at least one partner is not a national of or habitually resident in your State) and any trends in this regard:

There are no statistics about international couples available in Latvia. Instead, information about international spouses is available. According to the Central Statistical Bureau of Latvia's database of information, from 2010 to 2015 the number of international couples has increased. For example, in 2010 1,913 marriages of Latvian citizens with citizens of other countries were registered; in 2012 2158 such marriages; in 2013 2166 such marriages; in 2014 2292 such marriages; but in 2015 2394 such marriages. Statistic shows that brides (Latvian citizens) registers marriage with citizens of other countries often, than bridegrooms (Latvian citizens) with citizens of other countries (in 2015 1482 marriages of brides (Latvian citizens) with citizens of other countries were registered and 912 marriages of bridegrooms (Latvian citizens) with citizens of other countries were registered). But in this statistics it is important to observe that also the number of marriages registered in Latvian is increasing. According to the Central Statistical Bureau of Latvia's database of information, in 2010 9290 marriages were registered, in 2011 10760 marriages were registered, but in 2015 13617 marriages.

- f. any other relevant statistics: