

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 [Denmark](#)
applicable):

For follow-up purposes:

Name of contact person: [Mr. Brian Gresell Nørgaard](#)
Name of Authority / Office: [Ministry of Social Affairs and the Interior](#)
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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?

[From 1989 to June 2012 it was possible for same-sex couples to enter into a registered partnership in Denmark. From June 2012 it was made possible for same-sex couples to enter into marriage in the same way as applies for opposite-sex couples. At the same time the possibility to enter into registered partnership was repealed. An existing registered partnership contracted in Denmark can be transformed into a same-sex marriage if the couple so wishes. Existing partnerships that are not transformed are still valid as a registered partnership. The legal effects of a registered partnership are in overall perspective the same as the legal effects of a marriage.](#)

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):

Not relevant.

- (b) maintenance obligations:

Registered partners have an obligation to support each other financially, e.g. through maintenance. This follows from sections 2, 5, 6, 8 and 9 in the Act on the legal effects of marriage and sections 3 and 4 in the Act on registered partnership. The acts are available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=173263>

<https://www.retsinformation.dk/Forms/R0710.aspx?id=31533>

- (c) property

Registered partners have joint property regime unless they have made an agreement about separate property. This follows from Chapters 2 and 3 in the Act on the legal effects of marriage and sections 3 and 4 in the Act on registered partnership.

- (d) inheritance:

Danish legislation does not provide the possibility of registering partnerships, c.f. A.1.1.b. above. However, existing registered partnerships are governed by the same inheritance rules as marriage. This follows from section 4 of Act no. 532 of June 12, 2012.

The act is only available in Danish and can be found online:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=142282>

- (e) other(s):

Not relevant.

- (2) children, e.g.,

- (a) parental status:

In Denmark registered partners (and couples in a same-sex marriage and same-sex cohabitating couples) can be registered as the child's parents in connection with the birth of the child, if the child was made through assisted reproduction and under certain conditions. This follows from chapters 1 a and 5 in the Act on children. The act is available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=173272>

- (b) parental responsibility:

Registered partners who are the legal parents of a child fall under the regulations in the Act on parental responsibility in the same way as other couples who are legal parents of a child. The act is available online but only in Danish:

<https://www.retsinformation.dk/Forms/r0710.aspx?id=173278>

- (c) child support:

Registered partners who are the legal parents of a child fall under the regulations in the Act on child support in the same way as other couples who are legal parents of a child. The act is available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=173268>

- (d) adoption:

In Denmark registered partners (and couples in a same-sex marriage and both same-sex and opposite-sex cohabitating couples) can adopt a child. This includes the one partner's adoption of the other partner's child (stepchild adoption). This follows from sections 5 and 5 a in the Act on adoption and sections 3 and 4 in the Act on Registered partnership. The Act on adoption is available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=176861>

- (e) inheritance:

Danish law does not provide the possibility of registering partnerships, c.f. A.1.1.b. above. However, under Danish law a child inherits its parents no matter the parents' marital status.

(f) assisted reproduction:

In Denmark a person's civil status is not decisive for the right to access treatment with assisted reproduction. This means that registered partners, married couples, cohabiting couples and single women have the same rights regarding assisted reproduction. The Act on assisted reproduction sets up some rules for when assisted reproduction is NOT legal, e.g.:

- Women over 45 years of age cannot receive treatment.
- A health care person may not establish assisted reproduction unless the egg comes from the woman who will give birth to the child, or the semen comes from her partner.

- If there is an agreement between the woman where the pregnancy will be sought and another person, that the woman shall give birth to a child for the other person, assisted reproduction is not legal.

Before the treatment with assisteret reproduktion begins, it is a requirement that a written consent is obtained from the woman and from her possible spouse, registered partner or partner.

The Act on assisted reproduction is available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=167647>

(g) surrogacy:

There are no regulations especially for registered partners in regards to surrogacy. In Denmark commercial surrogacy is prohibited. Altruistic surrogacy is possible, but the woman giving birth is by law (the Act on children) the legal mother of the child. Hence a surrogacy arrangement is only possible through adoption.

(h) other(s):

Not relevant.

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

(a) pensions, including social security benefits:

If a registered partner has a pension scheme that includes pension for a surviving spouse this also covers the other registered partner. This follows from the Act on keeping the right to pension for a spouse in connection with separation and divorce and sections 3 and 4 in the Act on registered partnership. The Act on keeping the right to pension for a spouse in connection with separation and divorce is available online but only in Danish:

<https://www.retsinformation.dk/forms/r0710.aspx?id=31751>

The level of the public pensions (old age pension and disability pension) are lower for registered partners than for single persons. And the public pension can be affected by the income of the registered partner. This is due to the financial benefits that partners have when sharing the costs of the household. Registered partners with separate households can in certain situations receive pension as singles, e.g. if one of the partners is living in a nursing home.

In relation to the rules of child benefits registered partners are not entitled to ordinary and extra child benefits paid to single parents. A person living in a registered partnership can only be considered as a single parent - in relation to child benefits - when he or she is separated or living apart from the partner on grounds of disagreements. The status as single parent is conditional that he or she is not cohabiting with another person.

(b) other(s):

Not relevant.

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

No

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.)

A registered partnership can be annulled or dissolved in the same way as a marriage (both same-sex and opposite-sex marriages). This follows from Chapters 3-5 in the Act on marriage and section 5 in the Act on registered partnership. The Act on Marriage is available online but only in Danish:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=173274>

An application for a divorce must be filed at the State Administration. If the parties are in agreement the State Administration can grant the divorce administratively. If the parties do not agree, the case can be referred to the courts.

- 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.)

No

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.

A foreign same-sex registered partnership will normally be recognised in Denmark if the legal effects of the partnership in overall perspective are the same as the legal effects of a registered partnership in Denmark. Also the registered partnership must be valid in the country where it was contracted. Furthermore the partnership may not be manifestly contrary to Danish public policy, *e.g.* if one of the partners was under the age of 15 years of age at the time of registration or *e.g.* if one of the partners was not present during the ceremony when they were registered. These conditions are not laid down by law but follow from principles laid down by general practise.

- 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):

Not relevant

- (b) maintenance obligations:

Yes, in the same way as maintenance obligations for a Danish registered partnership.

- (c) property:

Yes, in the same way as the property regime for a Danish registered partnership. See also A.2.11.a. below.

- (d) inheritance:

Danish legislation does not contain rules on the recognition and enforcement of decisions made by foreign authorities regarding inheritance and the administration of estates of deceased persons. However, according to the Danish Administration of the Estates of Deceased Persons Act section 3, the Danish Minister of

Justice is authorised to lay down rules on the recognition and enforcement of decisions made by foreign authorities under certain conditions. At present, this authorization has not been used.

If a registered partnership or marriage registered or concluded abroad is recognised under Danish law by the competent Danish authority, and if private international law leads to Danish law being the applicable law, the parties would inherit each other in accordance with the rules set out in chapter 2 of the Danish Inheritance Act.

The acts are only available in Danish and can be found online:
<https://www.retsinformation.dk/Forms/R0710.aspx?id=141613>
<https://www.retsinformation.dk/Forms/R0710.aspx?id=2664#K10>

(e) other(s):
Not relevant

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

(a) parental status:

Yes, if the registered partners are the legal parents of the child.

(b) parental responsibility:

Yes, if the registered partners are the legal parents of the child.

(c) child support:

Yes, if the registered partners are the legal parents of the child.

(d) adoption:

Yes, foreign registered partners living in Denmark can adopt in the same way as the partners in a Danish registered partnership. If the foreign registered partners have adopted legally in another country and they were living in that country at the time of the adoption, the adoption will normally be recognised in Denmark.

(e) inheritance:

Danish legislation does not contain rules on the recognition and enforcement of decisions made by foreign authorities regarding inheritance and the administration of estates of deceased persons. However, according to the Danish Administration of the Estates of Deceased Persons Act section 3, the Danish Minister of Justice is authorised to lay down rules on the recognition and enforcement of decisions made by foreign authorities under certain conditions. At present, this authorization has not been used.

Under Danish law a child inherits its parents no matter the parents marital status. This follows from Chapter 1, sections 1-4 of the Inheritance Act.

The act is only available in Danish and can be found online:
<https://www.retsinformation.dk/Forms/R0710.aspx?id=2664>

(f) assisted reproduction:

In Denmark a person's civil status is not decisive for the right to access treatment with assisted reproduction. This means that registered partners, married couples, cohabiting couples and single women have the same rights regarding assisted reproduction.

(g) surrogacy:

The woman giving birth to the child is by law the legal mother of the child. This also applies to situations where foreign registered partners have entered into a surrogacy arrangement. If one of the partners is the genetic father, his legal parentage can be recognised in Denmark. If one or both of the partners have legally adopted the child in another country and they were living in that country at the time of the adoption, the adoption will normally be recognised in Denmark.

(h) other(s):
Not relevant

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

- (a) pensions, including social security benefits:

In regards to pension for a surviving spouse foreign registered partners can have the same right to such a pension as Danish registered partners.

Public pensions: As long as the registered partnership is recognised in Denmark the rules described above under 4.a.3.a apply.

If the validity of a registered partnership is recognised in Denmark the registered partners are accordingly not entitled to ordinary and extra child benefits paid to single parents. Please observe 4.a.3.a. above for further information on the rights of registered partners in relation to child benefits.

- (b) other(s):

Not relevant

- (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)?

[No](#)

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

[In regards to recognition the jurisdiction of the country where the annulment or dissolution case was handled is of main issue. If the country has rules governing jurisdiction that are similar to the Danish rules about jurisdiction in paragraph 448 c in the](#)

Act on administration of justice and the defendant has received the writ of summons and has had sufficient time to enable him to arrange for his defence, a judgement from this country about annulment or dissolution will normally be recognised in Denmark. These conditions are not laid down by law but follow from principles laid down by general practise.

The relevant rules in the mentioned paragraph 448 C are as follows:

1. The defendant is habitually resident here.
2. The plaintiff is habitually resident here and has been so for the last two years or has previously been habitually resident here.
3. Both parties are Danish citizens [citizens in the country handling the case] and the defendant does not object to the case being handled by Danish authorities [the authorities in the country handling the case].

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

See above under A.2.8.

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.

The courts have jurisdiction in cases about the validity of a registered partnership. This follows from section 448, no. 7, in the Act on administration of justice and section 5 in the Act on registered partnership. The Act on Administration of justice is available online but only in Danish:

<https://www.retsinformation.dk/forms/r0710.aspx?id=172923>

The National Board of Appeals can deliver an opinion on the the validity of a registered partnership. If a partnership contracted in Denmark is not valid, the National Board of Appeals can make a decision approving the partnership. This follows from section 21 in the Act on marriage.

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

The courts have jurisdiction in cases about the validity of a foreign registered partnership. This follows from section 448, no. 7, in the Act on administration of justice and section 5 in the Act on registered partnership.

The National Board of Appeals can deliver an opinion on the the validity of a foreign registered partnership.

- 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.

All applications about separation and divorce must be lodged at the State Administration. This follows from section 37 in the Act on marriage. All other cases about annulment and dissolution must be lodged at the courts. This follows from section 448 in the Act on administration of justice.

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

All applications about separation and divorce must be lodged at the State Administration. This follows from section 37 in the Act on marriage. All other cases about annulment and dissolution must be lodged at the courts. This follows from section 448 in the Act on administration of justice.

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.

According to general case law the applicable law in regards to the property regime in an opposite-sex marriage is the law in the country where the husband was domiciled at the time when the marriage was contracted. If the husband changed his domicile in immediate connection with contracting the marriage, e.g. by moving to the country of the wife or by moving with the wife together to a third country, the applicable law is the law in the new country of domicile. This case law is not gender-neutral.

In regards to same-sex registered partnerships (either domestic or foreign) this gender-issue creates a problem. The problem is not mentioned in the preparatory work on the Act on registered partnership and there is no known case law about this problem. Hence the issue is not yet clarified.

- 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.)

Not relevant

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.

No known problems

- 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.

Please insert text here

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

In regards to some social benefits the income of both cohabitating partners is taken into consideration, e.g. in regards to the total amount of the benefit.

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 cohabitantes 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 cohabitantes, *e.g.*,
- (1) personal obligations and duties of unmarried cohabitantes (*e.g.*, duty of care of unmarried cohabitantes):

Not relevant

- (2) maintenance obligations:

Not relevant

- (3) property relations:

Each party has his or hers own property unless they have acquired the object or property together as co-owners.

- (4) inheritance:

Not relevant

- (5) other(s):

Not relevant

- b. children, *e.g.*,

- (1) parental status:

No specific rules about cohabitating partners.

(2) parental responsibility:

Cohabiting partners who are the legal parents of a child fall under the regulations in the Act on parental responsibility in the same way as other couples who are legal parents of a child.

(3) child support:

Cohabiting partners who are the legal parents of a child fall under the regulations in the Act on child support in the same way as other couples who are legal parents of a child.

(4) inheritance:

Under Danish law a child inherits its parents no matter the parents' marital status.

(5) adoption:

In Denmark same-sex and opposite-sex cohabiting partners can adopt a child. This includes the one partners adoption of the other partners child (stepchild adoption).

(6) assisted reproduction:

See A.2.7.2.f. above.

(7) surrogacy:

There are no regulations especially for cohabiting partners in regards to surrogacy. In Denmark commercial surrogacy is prohibited. Altruistic surrogacy is possible, but the woman giving birth is by law (the Act on children) the legal mother of the the child. Hence a surrogacy arrangement is only possible through adoption.

(8) other(s):

Not relevant

c. other financial matters, *e.g.*,

(1) pensions, including social security benefits:

Public pensions: For unmarried cohabiting partners the same rules apply as for registered partners (see section 4.a.3.a).

In relation to the rules of child benefits unmarried cohabiting partners are in most cases treated as married couples and are accordingly not entitled to ordinary and extra child benefits. However, there is a difference as in contrast to a married couple unmarried partners who move apart are considered singles - and may be entitled to ordinary and extra child benefits - even if the absence of the partner is due to other circumstances than disagreements.

(2) other(s):

Not relevant

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)?
[No](#)

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.

[Cases between cohabitating partners about dividing co-owned property can be filed at the courts.](#)

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.

[Not relevant](#)

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.

[No known problems](#)

- 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.

[Please insert text here](#)

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?

Not relevant

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;
According to Denmark's Statistic there was about 3.200 registered same-sex couples living in Denmark on 1. January 2016.
- b. the (estimated) number of couples who are cohabiting without being married in your State and any trend in this regard:
According to Denmark's Statistic there was about 122.700 cohabitating couples living in Denmark on 1. January 2016.
- c. the (estimated) birth / adoption / surrogacy rates for registered partners and unmarried cohabitantes in your State and any trends in this regard:
No known statistic
- d. the (estimated) number of registered partnerships that have been annulled or dissolved in your State:
According to Denmark's Statistic about 200 registered partnerships were dissolved through divorce in 2015.
- 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:
No known statistic
- f. any other relevant statistics:
Not relevant