

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”)<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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:<sup>4</sup>

- 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 pacts of

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<sup>1</sup> 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](http://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.

<sup>2</sup> 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](http://www.hcch.net) > under “Governance” then “Council on General Affairs and Policy”.

<sup>3</sup> 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.*

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

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.<sup>5</sup> Individuals living in unmarried cohabitation are referred to as "unmarried cohabitantes".

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".

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<sup>5</sup> 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](http://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): [Ireland](#)

For follow-up purposes:

Name of contact person: [Ms Tracy O'Keefe](#)  
 Name of Authority / Office: [Department of Justice and Equality](#)  
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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?

[A statutory civil partnership registration scheme for same-sex couples was introduced in January 2011 under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 \(the 2010 Act\). However, following the commencement of the Marriage Act 2015 on 16 November 2015 which provided for marriage for same-sex couples, no new civil partnerships can be entered into.](#)

##### 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.)

As stated above Civil Partnership is no longer available in Ireland. Following a referendum in May 2015 and the subsequent commencement of the Marriage Act in November 2015 same-sex couples can now enter into marriage and therefore there is no longer a need for civil partnership.

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.

Yes.

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

Yes. Prohibited Degrees of Relationship are detailed in the Third Schedule to the Civil Registration Act 2004 (as amended by the 2010 Act). A man could not enter into a civil partnership with his: Grandfather, Grandparent's brother, Father, Father's brother, Mother's brother, Brother, Nephew, Son, Grandson or Grandnephew. A woman could not enter into a civil partnership with her: Grandmother, Grandparent's sister, Mother, Mother's sister, Sister, Niece, Daughter, Granddaughter or Grandniece

- (3) Both partners must attain a minimum age in order to form a partnership. (If yes, what is the minimum age?)

Yes minimum age 18 years

- (4) Both partners must have the mental capacity to consent to the partnership.

Yes civil partners must be able to give free and informed consent.

- (5) Both partners must consent freely to the partnership.

Yes Section 2A of the Civil Registration Act 2004, as inserted by the 2010 Act, provides that there is an impediment to a civil partnership if one or both of the parties to the intended civil partnership does not give free and informed consent.

- (6) Please state any other requirements:

The parties must be of the same-sex. Each party to the civil partnership must make the following declarations: (a) a declaration that he or she does not know of any impediment to the civil partnership registration; (b) a declaration of his or her intention to live with and support the other party; and c) a declaration that he or she accepts the other party as a civil partner in accordance with the law.

- b. Does your State envisage or study any changes regarding the present requirements? (If yes, please explain.)

No

**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):  
Similar to marriage
  - (b) maintenance obligations:  
Similar to marriage
  - (c) property  
Part 4 of the 2010 Act makes provision for the rights of civil partners in respect of the family home and is identical in substance to the regime in force for married couples of the opposite sex under the Family Home Protection Act 1976.
  - (d) inheritance:  
Similar to marriage except that the civil partner's child has rights in respect of the deceased's estate that in exceptional cases may prevail over the right of the surviving civil partner. Part 8 of the 2010 Act provides for the succession rights of civil partners and provides that civil partners have a legal right share to one half of the estate of the other in the event that the other dies testate. If one civil partner dies intestate leaving no issue the civil partner shall take the entire estate and if one civil partner dies intestate leaving issue the civil partner shall take two thirds of the estate.
  - (e) other(s):
- (2) children, *e.g.*,
  - (a) parental status:  
The biological or adoptive parent has full rights and obligations in respect of a child. Only the biological or adoptive parent is a guardian. The civil partner of a parent cannot seek guardianship or custody of his or her partner's child (but he or she can be made guardian on death of the parent or the removal of a guardian). The civil partner of the parent can seek access if he or she has acted in a parental role to his or her partner's child. The civil partner of the parent is not obliged to provide for his or her partner's child in a will.
  - (b) parental responsibility:
  - (c) child support:  
Each civil partner is obliged to support his or her own biological children but not the children of his or her civil partner
  - (d) adoption:  
At the moment civil partners are not allowed to adopt jointly though one civil partner may adopt singly. However amendments to Ireland's adoption law have been drafted that will permit civil-partnered couples and certain cohabiting couples to be eligible to jointly adopt a child, provided they were assessed as suitable to do so.
  - (e) inheritance:  
Children have a right to inherit from their biological parent.
  - (f) assisted reproduction:  
Not relevant

(g) surrogacy:  
Not relevant

(h) other(s):

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

(a) pensions, including social security benefits:

Pension and social welfare entitlements of civil partners are similar to spouses.

(b) other(s):

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

See note on amendments to adoption law.

### **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.)

The 2010 Act provides for the annulment or dissolution of a civil partnership. A court can grant a decree of nullity of a civil partnership on the following grounds: at the time of the registration of the civil partnership that a binding contract could not be entered into by the parties because one or both parties was already validly married or in a civil partnership, the parties were too closely related (prohibited degrees of relationship), the parties were not of opposite sex, or one was under 18 years old. A civil partnership may also be annulled if the formal requirements for the registration of the civil partnership were not followed or at the time of registration there was a lack of free and fully informed consent by either partner.

A court can also grant a decree of dissolution of a civil partnership. The following conditions must be met before a dissolution is granted: the parties must have been living apart from one another for a period amounting to 2 out of the previous 3 years before the application is made and proper arrangements must have been made or will be made for the civil partners and any dependent child of the civil partners.

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)?

No

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

Yes

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

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)?

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)?

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)?

Yes. [Section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010](#)

(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)?

Yes. [Section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010](#)

### 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).

[Will only be recognised if, under the law of the jurisdiction in which the legal relationship was entered into \(a\) the relationship is exclusive in nature \(b\) the relationship is permanent unless the parties dissolve it through the courts \(c\) the relationship has been registered under the law of that jurisdiction and \(d\) the rights and obligations attendant on the relationship are, in the opinion of the Minister for Justice & Equality, sufficient to indicate that the relationship would be treated comparably to a civil partnership.](#)

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.

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):  
Yes
- (b) maintenance obligations:  
Yes
- (c) property:  
Yes
- (d) inheritance:  
Yes
- (e) other(s):
- (2) children, *e.g.*,
- (a) parental status:  
Yes
- (b) parental responsibility:  
Yes
- (c) child support:  
Yes
- (d) adoption:  
Yes
- (e) inheritance:  
Yes
- (f) assisted reproduction:
- (g) surrogacy:
- (h) other(s):
- (3) other financial matters, *e.g.*,
- (a) pensions, including social security benefits:  
Yes
- (b) other(s):
- (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?

Under section 5 of the 2010 Act the Minister for Justice and Equality can make orders recognising as civil partnerships classes of legal relationships which were registered in other countries and which meet certain criteria (e.g. the relationship is exclusive in nature, the relationship is permanent unless the parties dissolve it through the courts, the relationship has been registered under the law of that jurisdiction, and the rights and obligations attendant on the relationship are, in the opinion of the Minister, sufficient to indicate that the relationship would be treated comparably to a civil partnership). Following the commencement of the Marriage Act 2015, however, partnerships registered abroad from 16 May 2016 onwards will not be recognised as civil partnerships in Ireland.

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

- (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):
- (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

If the parties fall within the prohibited degrees of relationship detailed in the Third Schedule to the Civil Registration Act 2004 (as amended by the 2010 Act). A man could not enter into a civil partnership with his: Grandfather, Grandparent's brother, Father, Father's brother, Mother's brother, Brother, Nephew, Son, Grandson or Grandnephew. A woman could not enter into a civil partnership with her: Grandmother, Grandparent's sister, Mother, Mother's sister, Sister, Niece, Daughter, Granddaughter or Grandniece

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

If the partnership was recognised as a civil partnership in the State in accordance with section 5 of the 2010 Act then the dissolution would also be recognised.

No

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

No

Annulment or dissolution of a civil partnership registered in the State must be done through the Irish courts.

**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 court may make an order in relation to the validity of a civil partnership if one of the civil partners is domiciled in the State on the date of the application, or has been ordinarily resident in the State throughout the period of one year immediately preceding the date of the application, or died before the date of the application and was at the time of death domiciled in the State, or had been ordinarily resident in the State throughout the period of one year immediately preceding the date of death.

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

N/A

- 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.

A party to the annulment or dissolution proceedings must be domiciled in the State on the date on which the proceedings are commenced, or was ordinarily resident in the State throughout the one-year period that ends on that date.

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

N/A

**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.

Under section 5 of the 2010 Act the Minister for Justice and Equality can make orders recognising as civil partnerships classes of legal relationships which were registered in other countries but only where they meet certain criteria (e.g. the relationship is exclusive in nature, the relationship is permanent unless the parties dissolve it through the courts, the relationship has been registered under the law of that jurisdiction, and the rights and obligations attendant on the relationship are, in the opinion of the Minister, sufficient to indicate that the relationship would be treated comparably to a civil partnership). Following the commencement of the Marriage Act 2015, however, partnerships registered abroad from 16 May 2016 onwards will not be recognised as civil partnerships in Ireland.

- 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.*)

Application of domestic law to the partnership once it has been recognised as a valid civil partnership under Section 5 of the 2010 Act.

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.)

no

**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

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.

no

**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

No

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

Yes

Part 15 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (the 2010 Act) provides a redress scheme for opposite-sex cohabiting couples who are not married and same-sex cohabiting couples who are not registered in a civil partnership. The redress scheme provides for a broadly similar range of orders as are available to married couples and couples who have registered a civil partnership when they separate, divorce or have their civil partnership dissolved. The aim is to provide protection for a financially dependent member of the couple if a long-term cohabiting relationship ends either through death or separation.

For the purposes of Part 15 of the 2010 Act, a cohabitant is one of 2 adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship and who are not related to each other within the prohibited degrees of relationship or married to each other or civil partners of each other (see section 172 of the 2010 Act). In order to apply for redress a cohabitant must be a "qualified cohabitant", that is, he or she must have been living with the other adult as a couple for a period of 2 years or more, in the case where they are the parents of one or more dependent children, or a period of 5 years or more in any other case. However, if one of the cohabitants is married, then neither of the cohabitants may be a qualified cohabitant until the married person has been living apart from his/her spouse for at least 4 of the previous 5 years.

Section 202 of the 2010 Act allows cohabitants to enter into a cohabitants' agreement to provide for financial matters during the relationship or when the relationship ends, whether through death or otherwise. A cohabitants' agreement is valid only if the cohabitants have each received independent legal advice before entering into it or have received legal advice together and have waived in writing the right to independent legal advice. The agreement must be in writing and signed by both cohabitants, and the general law of contract must be complied with.

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 cohabitees 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 cohabitees, *e.g.*,
  - (1) personal obligations and duties of unmarried cohabitees (*e.g.*, duty of care of unmarried cohabitees):
  - (2) maintenance obligations:
  - (3) property relations:
  - (4) inheritance:
  - (5) other(s):
- b. children, *e.g.*,
  - (1) parental status:
  - (2) parental responsibility:
  - (3) child support:

- (4) inheritance:
  - (5) adoption:
  - (6) assisted reproduction:
  - (7) surrogacy:
  - (8) other(s):
- c. other financial matters, *e.g.*,
- (1) pensions, including social security benefits:
  - (2) other(s):

## 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?
- 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)?

#### 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.

Section 196 of the 2010 Act sets out the jurisdiction of the courts in relation to a variety of cohabitant law proceedings. A cohabitant may only bring redress law proceedings if he or she is domiciled in the State or has been ordinarily resident in the State throughout the one year period ending on the date of the initiation of the proceedings.

#### **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 applicable

#### **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

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.

No

#### **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?

No

#### **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;

A total of 2071 civil partnerships were registered from 2011 to 2015. No new civil partnerships can be entered into following the commencement of the Marriage Act 2015 on 16 November 2015 which provided for marriage for same-sex couples.

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

In 2011, of the 1.18 million families in Ireland, 143,600 were comprised of cohabiting couples. This was an increase of 21,800 on the 2006 figure, but shows a slower

rate of growth than in previous years. (From 2002 to 2006 the numbers grew by an average of 11,000 per year) (This is Ireland Highlights from Census 2011, Part 1: CSO).

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

In, 2011 of the 143,000 families comprised of cohabiting couples, while the majority (83,300 couples - 58%) had no children, the average number of children in this family type was rising. There were 0.7 children per cohabiting couple in 2011, up from 0.6 in 2006.

We do not have reliable data on children born to civil partners or adoption and surrogacy rates.

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

In 2014 and 2015 there were 41 and 78 applications to the courts to dissolve civil partnerships respectively. To date in 2016 no applications have been made to annul a civil partnership.

- 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 reliable data available.

- f. any other relevant statistics: