

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):

For follow-up purposes:

Name of contact person: Anna-Karin Larsson
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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?

No. The Registered Partnership Act (same sex couples) ceased to apply at the end of April 2009, when same-sex marriages were introduced. This means that it is not possible to register a new partnership. However, a partnership that has already been registered continues to be a partnership until such time as the partnership is dissolved or converted into 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):

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.

Provisions regarding the recognition of the validity of a marriage entered into abroad can be found in the Act 1904:26 s. 1 on certain international legal relations regarding marriage and guardianship. The provisions may be applied by analogy on foreign registered same sex partnerships which could be equated to a marriage. That would mean that a partnership registered abroad according to foreign law would be considered valid, if it is valid in the state where it was registered. The partnership would, however, not be recognised if there were impediments to marriage/partnership between the parties according to Swedish national law at the time of registration of the partnership or if both parties were not present and at least one of the parties was a Swedish national or a resident in Sweden. Forced partnerships would not be recognised.

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):

If the effects in the state of registration were similar to the effects of a marriage a question of recognising effects of the partnership would likely, where applicable, be handled by an analogy to the legislation governing jurisdiction, applicable law and recognition and enforcement for such questions between spouses, Act (1990:272) regarding international questions regarding the property regime of spouses and cohabitants (LIMF for short). The effects would then be recognised provided that the analogy pointed out the law of the state of registration as governing law.

According to 3-5 §§ LIMF spouses or future spouses can agree in writing on the governing law for their property relations. Such an agreement would, with some exceptions, be valid if the agreement pointed out the law of a state where one of them was a resident or a citizen at the time of the agreement. If there is no agreement the governing law will be the law of the country where the spouses took residence when they married. If they have later moved and have resided more than two years in another state, that states law would be applicable instead. If they have previously resided there during their marriage or are both citizens there the two year-requirement would not be applied. The act contains a provision that would prevent outcomes that would be manifestly contrary to the Swedish legal order.

(b) maintenance obligations:

The Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (the Maintenance Regulation), which with respect to applicable law refers to the 2007 Hague Protocol, may be applicable.

(c) property:

(See a) above

(d) inheritance:

No specific rules for registered partnerships. Regulation (EU) No 650/2012 of the European Parliament and the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession would in Sweden be applied regardless of the international connection being in relation to an EU state or any other state.

(e) other(s):

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

(a) parental status:

No specific rules for registered partnerships. There is an act from 1985 regarding international questions on fatherhood, applicable directly or through analogy on presumptions of parenthood. Governing law under that act is the law in the country where the child at birth took residence. If fatherhood could not be decided that way a man would be the child's father if he would be according to the law of the state where the child became a citizen at birth. If a child at birth takes residence in Sweden the question of parenthood would always be decided according to Swedish law.

Any foreign judgment whereby parenthood have been declared or uplifted would likely be recognised if it because of a parts residence, citizenship or other connecting factor was reasonable causes for the question to be decided in that state.

(b) parental responsibility:

No specific rules for registered partnerships. This question is normally subject to the law at the place of habitual residence of the child. (See for example the Brussels II regulation, the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility, which also include provisions regarding the recognition of a foreign judgment.)

(c) child support:

No specific rules for registered partnerships. This question is subject to the law at the place of habitual residence of the child pursuant to the EU Maintenance Regulation, which also include provisions regarding the recognition of a foreign judgment, and the 2007 Hague Protocol on the Law Applicable to Maintenance Obligations.

(d) adoption:

No specific rules for registered partnerships. According to an act from 1971 regarding international aspects of adoption (3 §) a decision on adoption from a foreign state would normally be recognised in Sweden if the applicant was a citizen of or resided in that state at the time of the decision.

(e) inheritance:

No specific rules for registered partnerships. See 1 d) above.

(f) assisted reproduction:

No specific rules for registered partnerships. Assuming assisted reproduction took place abroad paternity has to be determined in such cases. Same-sex couples can attain joint parenthood through adoption if they are married/registered partners. If parental status has already been decided in another country, see a) above.

(g) surrogacy:

No specific rules for registered partnerships. Surrogacy is not permitted in the Swedish health care. The legal situation for a child born out of surrogacy abroad would have to be dealt with on a case by case basis. The surrogate mother would according to Swedish law be considered as mother to the newborn child. Paternity would be determined first. A registered partner would then be able to apply for adoption. In case

there is a foreign acknowledgement/court decision of parenthood, the partners could apply for recognition before a Swedish court. The Swedish Court of Appeal in Stockholm have decided at least two such cases and in both cases recognised the foreign judgment that declared a Swedish same-sex couple as parents to a child born by a surrogate mother.

(h) other(s):

- (3) other financial matters, *e.g.*,
 (a) pensions, including social security benefits:

(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?

Please see the answer to question a) above.

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

According to national law spouses/partners cannot be direct ascendants or descendants. Halfbrothers/-sisters and siblings by adoption would need a special permission. It is likely that a partnership between any such blood relations would not be recognised.

- (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
 Determined on a case by case basis. See for example a partnership between ascendants/descendants above. Another example would be if one (or both partners) were a child(/children).
 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)?

It is likely that a Swedish authority would be more allowing if the question arose as a preliminary issue.

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

Yes if there was reasonable causes for the the dissolution or annulment to be tried in that country with regard to the party's citizenship, residence or other connecting factor. An application for recognition would be tried by a Swedish district court.

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

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.

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.

We are not aware of any such situation but a thinkable scenario would be if a same sex couple moves to a state that does not recognise same sex partnerships/marriages.

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

The Cohabitees Act (2003:376) aims to provide a minimum protection for the weaker party when a cohabitee relationship ends. The Cohabitees Act contains rules on dividing the joint dwelling and household goods of cohabitees, concerning the right of a cohabitee to take over a dwelling that is not included in the division and concerning restrictions on the right to dispose of the joint home. There are also rules in the Tenancies Act, which in all material respects equate cohabitees with spouses and registered partners. Furthermore, there are a number of provisions in, for example, tax legislation and within social welfare insurance that equate cohabitees with spouses and registered partners, particularly when the cohabitees have or have had a child together.

No

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

Yes

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

No

- (2) maintenance obligations:

No

- (3) property relations:

See 14 a) above

- (4) inheritance:

Not in general. There is, however, a right to keep a minimum part of the household goods when the joint dwelling and household goods are divided (the Cohabitants Act, 18 §).

- (5) other(s):

See 14 a) above

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

- (1) parental status:

In contrast to what applies as regards a child born by parents who are married to each other, the paternity of a child whose parents are unmarried must, according to the Parental Code, be determined in accordance with a special system. This also applies when the unmarried parents are cohabitants. A child of unmarried parents is in the sole custody of the mother, even if the parents are cohabitants. If the child's mother is not married when the child is born, paternity must be specially determined by an acknowledgement (or by a judgment). Acknowledgement of paternity is made in writing. Two persons must witness the document. The acknowledgement must be approved by the mother of the child and by the social welfare committee.

- (2) parental responsibility:

Parental responsibility would not depend on the parents' civil status. The same rules apply to a person deemed to be a parent after an acknowledgement or a judgment as for parents by assumption, regarding, for example, custody of the child, maintenance, inheritance, name and parental benefits.

- (3) child support:

Child support to mutual children would not depend on the parents' civil status. A cohabitant could, however, only be obligated to support the other cohabitants' children if the cohabitants have a mutual child together as well.

(4) inheritance:

The child's right to inherit is not dependant on the parents' civil status.

(5) adoption:

Under the current legislation only married couples (or registered partners) can adopt together/each others' children. There is, however, a proposal that is currently being considered that would entail increased rights to adopt for cohabittees.

(6) assisted reproduction:

Assisted conception treatment with donated sperm may be provided in the Swedish public health service. If the woman has a spouse, partner or cohabitee (same sex or not), written consent is required from him/her. The spouse, partner or cohabitee – together with the woman who has undergone fertilisation – is deemed to be the parent of the child that is born. This presupposes that he/she has given consent to the fertilisation and that it is probable the child was thereby conceived. Parenthood is established by an acknowledgement. The acknowledgement must be in writing and witnessed by two people and also approved by the mother and the social welfare committee. If parenthood is not acknowledged voluntarily, it may be established by a judgment.

The parenthood rules do not apply to children who have been conceived by assisted fertilisation outside the Swedish health service, for example by insemination arranged privately or abroad. Instead paternity has to be determined in such cases. Same sex couples can attain joint parenthood through adoption if they are married. For now this is, however, not possible if they are only cohabitating.

(7) surrogacy:

Surrogacy is not permitted in the Swedish health care. The legal situation for a child born out of surrogacy abroad would have to be dealt with on a case by case basis. The surrogate mother would according to Swedish law be considered as mother to the child. Paternity would be determined first. There would under the current legislation (see adoption above) be no possibility for a partner to the father to adopt the child unless the couple is married (or registered partners).

(8) other(s):

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

(1) pensions, including social security benefits:

There are a number of provisions in, for example, tax legislation and within social welfare insurance that equate cohabittees with spouses and registered partners, particularly when the cohabittees have or have had a child together. Those under the age of 65 may receive an adjustment pension if their spouse has died. A registered partner is also regarded as a spouse. Even a cohabitee can be regarded as a spouse if you have, have had or are expecting a child together, or if you were previously married or lived as registered partners.

(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?
 The effects of the legal regime could be recognised, where Swedish conflict of law rules (LIMF) point out the law of that state as governing law.
 A judgment could be recognised
- 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)?
 Yes, see answer above regarding registered partnerships.

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.

2 § LIMF; jurisdiction lies with the Swedish courts if the defendant resides in Sweden or the plaintiff resides in Sweden and LIMF points out Swedish law as applicable law or the question regards property in Sweden or the defendant accepts it.

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.

For the property regime of cohabitantes: LIMF governs this question. In relation to other aspects, analogy from and through interpretation of provisions regarding marriage. (For questions regarding children, the civil status of the parents is irrelevant. See answers regarding conflict of law rules with respect to registered partnerships.)

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.
- b. In particular, do you know of any situation where unmarried cohabitantes 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.

We are not aware of any such situation but a thinkable scenario would be if a cohabitating couple moves to a state that does not recognise the legal effects that their cohabitation had in their state of origin.

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?

As mentioned above a proposal giving cohabitees increased rights to adopt is currently being considered.

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;

In 2015 there were 1 302 men and 1 149 women living in registered partnerships in Sweden. The number of registered partners is decreasing as there are no new partnerships registered and registered partners can convert their partnership to a marriage.

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

No statistics. It is estimated that about half of all newborn children in Sweden have unmarried parents (but the numbers would include both cohabitating parents and parents living apart).

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

No statistics. See above regarding birth by unmarried cohabitees.

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

No statistics.

- 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 statistics.

- f. any other relevant statistics: