

QUESTIONNAIRE

LEGAL RULES REGARDING PATRIMONIAL INTERESTS, SUCCESSION AND DUTIES OF COUPLES LIVING TOGETHER BUT NOT BEING MARRIED

ESTONIA

[A] Contractual arrangements

1. Does your system of law allow (i) heterosexual couples and (ii) same sex couples who are living together to enter into a contract governing their cohabitation, particularly as respects:

- obligations of support or maintenance
- ownership of property during cohabitation
- financial claims on the cessation of the cohabitation?

No.

2. If such contractual arrangements are permitted, is it common for cohabiting couples to conclude a cohabitation contract?

See the above answer to question 1.

3. Are there any formal requirements (eg signature before witnesses, involvement of a notary) which require to be satisfied before a cohabitation contract is valid?

See the above answer to question 1.

[B] Heterosexual couples: non contractual rules

This section of the questionnaire is concerned with the rules governing or affecting the relationship between a man and woman who are living together, unmarried, without having concluded any cohabitation contract as in [A].

1. Where a couple are co-habiting does your legal system recognise any mutual duty of aliment or maintenance during the period of co-habitation?

No.

2. Are there any particular rules regarding ownership of moveable property such as, for example, household furniture acquired during the time in which the couple are co habiting?

No.

3. If the relationship breaks down and the parties separate, does your legal system enable one of the co-habitants to claim from the other (a) payment of maintenance or (b) payment of a capital sum? If so, are such claims determined on the same principles as would apply were the couple married or do different rules apply?

The Courts apply the rules of the Obligation Law. There are no specific rules concerning these matters.

4. Where the house in which the parties live together is either owned or tenanted by one of the parties, does your legal system give the other party any right to continue to occupy the house when the relationship breaks down?

See the above answer to question 3.

5. Where the cohabitation comes to an end by reason of the death of one of the co-habitants, what rights, if any, in the estate of the deceased cohabitant does your legal system give to the surviving co-habitant?

There are no specific rules. According to law there are no rights (except a testament etc).

6. Does a co-habitant have any title to sue for damages in the event that his or her partner is killed through the fault or negligence of a third party?

See the above answer to question 3.

7. In so far as your legal system does give rights to a co-habitant, does it also define what is necessary for the relationship to be treated as a "co-habitation"? Are different definitions of "cohabitation" used, depending on the right which is claimed? What factors are taken into account in the definition(s)?

See the above answer to question 3.

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[C] Homosexual couples: non contractual rules

This section of the questionnaire is concerned with the rules governing or affecting the relationship between two people of the same sex who are co-habiting without having concluded a cohabitation contract as in [A].

1. In your country are couples of the same sex able to enter into a relationship which, following registration or some other public ceremony, will be legally recognised by the State?

No.

2. If so, what are the principal ways in which the rules governing the patrimonial aspects of that relationship differ from those applying in (heterosexual) marriage?

See the answer above to question 1.

3. In the event that a same sex couple either cannot enter into a legally recognised relationship or have chosen not to do so, does their cohabitation give rise to the same rights and obligations which would result from cohabitation of a man and a woman? If not, what are the principal differences?

Courts apply the rules of the Obligation Law.

[D] Miscellaneous

1. Are there any proposals for reform of the law relating to cohabiting couples (homosexual and heterosexual)?

Yes. The not very fruitful process is going on for years.

2. What points would you wish to discuss in greater detail?

All questions above.

3. What subject do you suggest for the next meeting?

The procedural law – what can be done that the court procedure would not be that complicated to the parties