



IAFL Introduction to European Family Law Conference

23 & 24 October 2025

Friday, 24th October 2025: 9:00 – 10:30

Session 4: Married and unmarried couples: Maintenance and other financial consequences when relationships breakdown

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Dr Christopher Reibetanz

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Profile

Dr. Christopher Reibetanz is a post-doctoral researcher at Bucerius Law School in Hamburg, Germany. He studied law at Bucerius Law School and University of Cambridge. From 2021-2025, he worked as a doctoral research and teaching assistant at a chair for civil law, private international and comparative law. During his PhD research, he focussed on private international law, especially international family law. His PhD thesis on de facto unions was published in spring 2025 ('Das Kollisionsrecht der faktischen Lebensgemeinschaft', Mohr Siebeck 2025).

Valentine Darmois

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Profile

Avocate à la Cour. Attorney at the Paris Bar. Graduated in English Law and French Law (King's College London), in International Private Law and International Trade (Paris I Panthéon Sorbonne. Member of the Expert Commission in Family Law for the Bar of Paris. Contact point for the European Judicial Network in civil and commercial matters (EJN). Frequent lecturer in international family law, notably at the Paris Bar School (EFB) and the Ecole Nationale de la Magistrature. Member of the ""Institut du droit de la famille et du patrimoine"" (Institute of family law and private client's assets management). Bilingual in English and French. Deals exclusively with family law cases, with a large practice in international family law (divorce, custody, successions, maintenance issues, property division, adoptions, Hague Convention cases, same-sex partnerships, marriages and parentage...).

Languages Spoken: English, French

Alexander Breedon

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Profile

Alex is a partner at Withers in London. He advises on all aspects of family law including divorce, financial disputes, cohabitation, children matters and pre and postnuptial agreements. He has particular experience in dealing with complex international divorce cases, forum disputes, multi-jurisdictional asset portfolios, and enforcement tactics. Alex regularly advises on private children matters and has successfully represented clients in international relocation cases, including in the Court of Appeal. He acts regularly for clients negotiating pre and post-nuptial agreements, both for those based in England, and those based internationally with connections to England.

Lukas Deppenkemper

WHL: Weiss Hippler Leidinger

Family Lawyer

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Profile

Lukas is a qualified German lawyer and certified family law specialist. He holds a German law degree from the University of Düsseldorf and a French Master II degree from the University of Cergy-Pontoise. He is a partner at the Düsseldorf-based boutique family and inheritance law firm WHL Weiss Hippler Leidinger, where he advises clients on all aspects of German and international family law.

He has almost a decade of experience working on cross-border cases involving foreign jurisdictions such as England and Wales, France, several U.S. states, Spain, Hong Kong, India and Australia. Due to his background in corporate law, he has a particular interest in cases involving complex property structures. Lukas is a member of the [International Private Clients and Family Law Commission](#) of [AIJA](#) and frequently speaks about German family law at national and international conferences.

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Profile

Lovisa Janhagen is an attorney at Lindskog Malmström Lawfirm in Stockholm. Lovisa Janhagen is specialized in Swedish and international family law and inheritance law. Lovisa Janhagen primarily represents her clients in disputes regarding division of marital property or disputes regarding inheritance. Lovisa Janhagen is also often consulted regarding the drafting of legal documents such as wills, prenuptial agreements and cohabitation agreements.

Areas of practice

Swedish and international family law, Swedish and international inheritance law.

Education

LL.M, Stockholm University

Exchange semester at Humboldt University, Berlin

Experience

Lindskog Malmström Lawfirm, 2018-

Member of the Swedish Bar Association



**The financial consequences
of the breakdown of the relationship
in married and unmarried couples**

Introduction to European family law
Hamburg, 23-24 October, 2025

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**The financial consequences of
the breakdown of *de facto*
couples**

Dr. Christopher Reibetanz
Bucerius Law School

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Comparative overview (substantive law): 3 models / regulatory frameworks for cohabitation

- (1) no legal consequences, e.g. France, Germany
- (2) marriage "light", e.g. Sweden, Ireland
- (3) assimilation of married and unmarried partners, e.g. Slovenia, Hungary, Croatia, Australia, New Zealand

Problems arising in cross border situations, with special regards to maintenance and property rights

- Problem of characterization: international property law or family law?
- No coherent solution for de facto unions on European level as regards property rights:
 - EU Regulations on Matrimonial Property & Rome Regulations;
 - Maintenance Regulation & 2007 Hague Maintenance Protocol
- Fragmentary (or no) regulation on national level
- Consequence: great legal uncertainty for de facto couples

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**The financial consequences of
the divorce**

Alex Breedon, England
Valentine Darmois, France
Lukas Deppenkemper, Germany
Lovisa Janhagen, Sweden

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**An introduction to domestic substantive rules
on maintenance and the liquidation of matrimonial
property**

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GERMANY

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❖ Liquidation of matrimonial property

If no marriage contract was concluded

=> default regime: equalisation of gains (*Zugewinnausgleich*)

- No community property – all property is personal during the marriage
- Spouses may both hold an interest in the same asset – e.g. the marital home
- Mechanism to share equally their respective increase in net worth during marriage

Zugewinnausgleich

- Mathematical approach
- Exemption of inheritances, gifts (limited to initial value)
- Payment in €, generally no obligation to transfer property

Possibility to conclude a marriage contract at any time (notary needed)

- Exclude certain assets from the sharing mechanism
- Select one of three other regimes (i.a. separation of property, community of assets)

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❖ Maintenance

From separation until the divorce is completed: separation maintenance

- Principle of equal division (*Halbteilungsgrundsatz*): each spouse should be allocated half of the couple's 'net income', with income from professional activities being considered at a rate of 90%. Determination of 'net income' is key.
- Obligation does not arise by operation of law (notice of default necessary)
- Active divorce proceedings are not a prerequisite

Post-divorce maintenance

- Starting principle: each spouse is responsible for their own expenses after divorce. Still very frequent. Grounds are:
 - care of minor children prevents full-time employment
 - old age or illness
 - unemployment or need for (re)training, further education
 - top-up maintenance (bridging a persisting income gap compared to standard of living enjoyed during the marriage (most frequent))
- Monthly payments. Calculation: same method as separation maintenance but typically fixed-term (often 1/4 to 1/3 of the duration of marriage depending on circumstances) or declining over time. Can be forfeited (e.g. new marriage, relationship)
- Lump sum almost never ordered by court but frequent in amicable divorce settlements

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FRANCE

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LIQUIDATION OF MATRIMONIAL PROPERTY

- **If no marriage contract was concluded** => default regime: community of assets
 - All assets acquired and accumulated during the marriage are common property (with limited exceptions)
 - The assets received through donation or succession during the marriage remain personal property
- **Marriage contract (notaire)**: the spouses may choose between several matrimonial property regimes:
 - Community of assets
 - Separation of property
 - 'Participation aux acquêts' (participation to acquisitions) : hybrid regime: all property is personal during the marriage, but the spouses will share equally their respective enrichment during the marriage upon dissolution of their matrimonial property regime
 - Separation of property, but certain categories of assets are common property

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❖ MAINTENANCE

- **During the divorce proceedings**: potential monthly maintenance whilst the proceedings are pending (art. 255 Civ. code), subject to :
 - the spouses' respective income and needs;
 - their lifestyle during the marriage.
- **As a result of the divorce**: the court is entitled to award maintenance to one of the spouses in the event where the divorce creates a « *disparity between the living conditions of the spouses* » [my translation]
 - No set formula: discretionary based
 - The French civil code lists a number of criteria that the court is required to examine to assess whether the conditions are met (age of the spouses, length of the marriage (pre-separation), respective income, respective assets, etc.)
 - Should be a lump-sum in priority
 - The court may also award instalments (8 years max) or, in exceptional cases, a life annuity ('rente viagère')

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SWEDEN

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LIQUIDATION OF MATRIMONIAL

PROPERTY

- If **no marriage contract was concluded** => the spouses are entitled to half of the total net value of the marital property that the spouses own.
 - All assets that the spouses own are **marital property**, unless they are **separate property** (regardless of if the assets were acquired before or during the marriage)
 - Separate property: stated in a will, prerequisite for a gift, prerequisite for an endowment insurance with a beneficiary designation, or through a marriage contract
 - Possibilities of adjustments of division of assets according law. (ex. short marriages)
- **Marriage contract:**
 - Can be drawn up before or during the marriage,
 - Shall be registered by the Swedish Tax Agency,
 - Possible to state that all assets shall be separate property (that the spouses now own and will acquire in the future), or that certain assets shall be separate property/marital property.

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❖ MAINTENANCE

- **In event of a divorce, each spouse shall be responsible for their own financial support**
- **During marriage :**
 - During the marriage, the spouses shall provide for each other's needs.
 - Until the court has announced a decision regarding divorce, there is a possibility to claim maintenance during marriage (even if the spouses already have separated)
- **Maintenance after divorce:** applied restrictively,
 - Main rule that each spouse shall provide for her-/himself,
 - Maintenance claim for a shorter period after the divorce,
 - *The needs of the first spouse and the financial possibilities for the other spouse shall be considered.*
 - Maintenance claim for a longer period after the divorce,
 - *If one of the spouses have difficulties to provide for themselves due to the marriage, or due to exceptional reasons.*

Compared to other countries; maintenance is granted restrictively (between former spouses)

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ENGLAND

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❖ Financial claims on divorce in England & Wales (1)

- No 'regime' as such
- Claims arise *on divorce*

Sharing

- Yardstick of equality: equal division of the matrimonial acquest
- What is in the pot vs what is out
- Matrimonialisation
- Valuation / risk / liquidity

Needs

- Housing need / income need
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❖ Financial claims on divorce in England & Wales (2)

- Broad discretion: application of 'sharing' and 'needs' principles
 - Clean break vs on-going spousal maintenance
 - Capital award can therefore contain a capitalised maintenance element in some cases
 - Global financial disclosure and global order (subject to enforcement..)
 - Child maintenance
 - Pending resolution – interim maintenance can be ordered if needed
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PRACTICAL CHALLENGES ARISING IN CROSS-BORDER SITUATIONS

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(1) Practical issues regarding the applicable law

- The difficult distinction between maintenance and matrimonial property
- Correctly applying foreign law: a challenge for national courts
- Defeating expectations on the law applicable to the financial and matrimonial consequences of the divorce
 - Overriding national provisions regarding matrimonial property
 - Contrasting views regarding public policy on maintenance within the EU

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(2) Practical issues regarding jurisdiction

- Competing jurisdictions between Member States: the race to the jurisdiction
- Competing jurisdictions with English courts
- The effectivity of choice of court agreements within the EU and vis-à-vis England

(3) The particular issue of post-divorce maintenance / property claims

- Post-divorce "additional" claims between Member States
- Res judicata: the issue of English Part III proceedings

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