

IAFL Introduction to European Family Law Conference

Tirana, Albania

15 & 16 October 2026

Session Resources Pack

Session 2: Thursday, 15th October 2026: 12:15 -13:30

Different Matrimonial Property Regime (to Include Nuptial Agreements)

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Profile

In practice since November 1990, specialized in German and International Family Law, Law of International Adoption and Law of Inheritance. Certified Specialist in Family Law ("Fachanwältin für Familienrecht") since 2001. Memberships: President of the Family and Inheritance Law Committee of the German Federal Bar (BRAK, Berlin); Member of the European Law Committee of the German Federal Bar (BRAK, Brussels); Member of Family Law and Succession Law Committee of the CCBE; Member of German Association of Female Lawyers; Team Leader and EU Expert working in Russia (2011-2013) and Kosovo (2014-2022); Lecturer and Trainer to educate Lawyers and Judges in national, International and European Family Law; several publications in International Family Law for practicing attorneys and judges; Member of the publishing team of a Family Law Journal in Germany.

Languages Spoken: German, English

Practice Areas: Adoption, Child Custody/Residence/Visitation/Contact, Custody/Residence/Visitation/Contact, Divorce, Enforcement: Child Custody, Enforcement: Property Division, Finance: Pensions/Superannuation/Retirement and Employment Benefits, Finance: Property Issues, Hague Convention/Child Abduction, Pre-nuptial/Post-nuptial Agreements, Relocation/Removal from Jurisdiction, Same Sex Partnerships, Surrogacy

Hugues Gaston

Alexandre Boiché & Associés

Paris

France

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Hugues Gaston is a Family lawyer admitted to the Paris Bar. He has experience in all areas of family breakdown.

His practice covers both complex financial cases and child-matters.

He advises clients on a broad range of international and domestic family law issues, including divorce or any kind of separation, inheritance, pre/post-nuptial agreements, adoption, surrogacy, recognition and enforcement of foreign decisions in France, whether in the context of litigation or negotiations.

He also has a significant experience on multi-jurisdiction divorce cases (notably Europe, United-States of America, United-Kingdom, Singapore, Hong-Kong, Japan and United Arab Emirates).

He has a particular expertise in child abduction cases due to his academic graduation and internships during his training as a lawyer.

During his studies, he worked with IAFL fellows Delphine Eskenazi and Frances Goldsmith.

Prior to join Alexandre Boiché & Associés law firm, he has also worked in the Department of Mutual Assistance, Private International and European Law (French Ministry of Justice), Central Authority in the application of numerous instruments of private international family law (Hague Convention of October 25, 1980 on the Civil Aspects of International Child Abduction, Hague Convention of October 19, 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and the Protection of Minors).

Finally, Hugues taught family law for 7 years at La Sorbonne Law School (Paris).

Hugues is a Fellow of the AIJA (International Association of Young Lawyers), registered in the International private clients and family law commission.

Caroline Weerkamp

Vienna

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Caroline Weerkamp is a family lawyer from Vienna, working in her law firm in the heart of Vienna. Caroline completed her studies in Vienna. During her studies she interned with the UN Special Rapporteur on the right to health in Mumbai, India, and also did an Erasmus semester in Amsterdam, The Netherlands. After her studies, Caroline worked in various renowned lawyer's offices in Vienna and was admitted to the bar in Vienna, Austria. For the last 6 years, Caroline has been working in the field of family law, litigating not only divorce, maintenance and the separation of marital assets, but also child-related cases, such as custody disputes, or in case social services remove children from their home. She also works with a consumer protection organisation as one of their lawyers of trust.

Caroline is engaged in various networks supporting women in legal professions in Vienna. She is also engaged in the Austrian bar to support young lawyers and make the profession more attractive and accessible for women. Her most recent publication concerns a current case of product liability at the Court of Justice of the European Union, in which she represents the claimant.

Caroline speaks German, Dutch and English.

Melissa Arnold

Osbornes Law

London

England



Website: <https://osborneslaw.com/teams/melissa-arnold/>

Melissa is a Partner at Osbornes Law in the family department, based in London. She advises on broad range of family law issues with a focus on divorce and separation. Melissa specialises in providing advice on the financial arrangements which might need to be made following the end of a relationship and has extensive experience advising high net worth individuals and those who have complex financial circumstances, including businesses and international assets.

Melissa is a trained family law mediator and provides advice on matters both in and out of court proceedings. Melissa is a keen advocate for non-court-based methods of resolution.

Melissa regularly represents vulnerable clients or individuals who lack capacity to litigate.

Melissa is ranked in the UK Chambers and Partners High Net Worth Matrimonial Finance directory. She is known for her dedication and compassionate client-focused approach. She has been quoted as having sound strategic instincts and excellent client management skills.

Judge Ervin Pupe

Member of the Supreme Court

Tirana

Albania



Ervin PUPE was born in Tirana, on February 21st, 1973.

He completed his studies in Law from 1991-1995 and postgraduate studies in civil law in 2001-2003 at the Faculty of Law, University of Tirana.

In 2003-2005, he completed his postgraduate studies in European law at the European Institute of the University of Geneva (IEUG, Switzerland).

He obtained “Doctor of Juridical Science” Degree in civil law in 2009 and earned the title of “Associate Professor” (Prof.Assoc.Dr.) in 2015.

In February 1996, he was appointed full-time lecturer at the Civil Law Department of the Faculty of Law, University of Tirana, as a lecturer/co-lecturer of “Law of Obligations and Contracts” courses.

From 2013 he has taught civil law courses (obligations) in the initial training program and has been legal expert at the continuous training program of judges and prosecutors at the Albanian School of Magistrates.

From 2007 to March 2020 he practiced the lawyer’s profession.

Mr. Pupe was appointed judge to the Supreme Court by decree no. 11453, dated 11 March 2020, of the President of the Republic from among the prominent jurists.

Olfa Triki

Tunis

Tunisia

Email: me.triki.olfa@gmail.com



Professional Summary

Attorney at the Court of Cassation, PhD in Law, and Assistant

Professor of Higher Education, with over 15 years of experience in legal practice and higher education. Her career combines extensive legal expertise, advanced academic training, and substantial university teaching experience.

Areas of Expertise

Civil law, family law, private international law, business law and arbitration.

Languages: Arabic: Native Language, French: C2 – Proficient user, English: C2 – Proficient user, German: A2 – Basic user

Professional Experience

- Attorney at the Court of cassation Jan. 2026- Present, National Bar
- Association of Tunisia, Tunis Bar Section
- Member of the National Sectoral Commission for Legal Sciences
- Jan. 2026-Present, Ministry of Higher Education and Scientific Research, Tunisia
- Assistant-Professor of Higher Education Sept. 2024 – Present, Faculty of Law and Political Science of Tunis, University of Tunis El Manar
- Tunisia Correspondent for CRIDON Lyon (Regional Research and Documentation Centre for Notaries) Jan. 2024-Present
- Permanent University Assistant Jan. 2015-Sept. 2024, Faculty of Law and political Sciences of Tunis
- Attorney at the Court of appeal July. 2013-Jan. 2026
- Trainee Lawyer July. 2011- July. 2013

Thursday, 15 October:

Session 2

Different Matrimonial Property Regime (to Include Nuptial Agreements) - here Case Study announcement -

The participants in this session come from a wide variety of jurisdictions. Some of these jurisdictions are bound by EU regulations, while others are governed by national law, which may include codifications in national private international law.

This poses a particular challenge for attorneys, especially when drafting precautionary prenuptial agreements.

We have therefore decided to discuss a brief case study, but we also hope that there will be time for a discussion among all participants following the short presentations.

Case Study:

Henry is a German national and works for a bank in Frankfurt am Main, Germany. He is engaged to Maria, who is a British national and is studying in your jurisdiction (Albania, Austria, England, France, Tunisia). Henry has a bank deposit (500K) but no real estate. Maria has no assets. The couple intend to establish their joint residence in your jurisdiction after the formal wedding, which will take place in Germany.



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BORDERS
By Alexandre Boiché & Associés

**Matrimonial
property regimes
& nuptial agreements**
France

EUROPEAN CHAPTER - IAFI TIRANA
15 OCTOBER 2026
HUGUES GASTON

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- 01 French international private law
- 02 French matrimonial property regimes
- 03 Nuptial agreement *à la française*
- 04 Case study

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01 - INTERNATIONAL PRIVATE LAW

Applicable law and jurisdiction

Applicable law

The rule applicable in France for determining the law governing matrimonial property regimes depends on the date on which the marriage was solemnized:

BEFORE 1 SEPTEMBER 1992
Case law

BETWEEN 1 SEPTEMBER 1992 AND 28 JANUARY 2019
Hague Convention of 14 March 1978

SINCE 29 JANUARY 2019
EU Regulation

Jurisdiction

Jurisdiction will be determined solely by the rules on jurisdiction laid down in the EU Regulation, regardless of the date on which the marriage was solemnized.

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02 - MATRIMONIAL PROPERTY REGIMES

Different types

French law provides for several designed regimes:

01

Community of property limited to acquisitions

02

So-called universal community of property

03

Strict separation of property

04

Participation in acquisitions

Designing their own regime

Spouses may **adopt each of these regimes** to suit their needs, subject to several so-called 'public policy' rules, by means of a marriage contract.

PRIMARY REGIME - MANDATORY

All spouses residing on French territory are subject to a mandatory regime provided for by the French Civil Code: for example, protection of the family home (no sale without the consent of both spouses, even if the property belongs solely to one of them), regardless of their matrimonial regime.

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02 - MATRIMONIAL PROPERTY REGIMES

By default

NO MARRIAGE CONTRACT

In the absence of a marriage contract, the spouses will be subject to the statutory regime known as the **'community of assets' regime**.

CHOOSING A REGIME

They **cannot simply declare their preference** for one regime over another at the celebration of the marriage; if they wish to choose a regime, they must do so by means of a marriage contract.

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03 - MARRIAGE CONTRACT - NUPTIAL AGREEMENTS

French law

01

Spouses may enter into a marriage contract **before or during the marriage**.

02

They must do so before a **French notaire**, the only person authorized to draw up marriage contracts. They must sign it **in person and in their own hand** (no power of attorney, no representation).

03

The document is deemed 'authentic' and has the same legal force as a court order, which makes it very difficult to challenge or to refuse to apply in the event of a divorce.

04

There is **no obligation to seek independent advice**, nor a requirement for full financial disclosure (although in practice the latter is increasingly requested).

05

The French notaire does not advise any one party, **but both future spouses**.

06

A marriage contract generally covers **only the matrimonial property regime** and nothing else, apart from a few estate-planning measures.

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15 October, Tirana, Albania Different Matrimonial Property Regime Speaker Profiles

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03 - MARRIAGE CONTRACT - NUPTIAL AGREEMENTS

Scope – international context

01

Designating the law

In an international context, the future spouses (or spouses) may **designate the law applicable** to their matrimonial property regime as well as to maintenance obligations: a French-style marriage contract may thus stipulate both.

02

Post-divorce maintenance maintenance

Under French law, it is **not possible to agree on post-divorce maintenance**; however, if the foreign law designated by the spouses permits it, this is possible.

03

The main limitation

Our Cour de cassation appears to consider that a **walver of all maintenance upon divorce** would be contrary to our public policy (German law here), so that such a provision would have no effect even under the foreign law that provides for it.

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03 - MARRIAGE CONTRACT - NUPTIAL AGREEMENTS

Recognition in the event of divorce

IF THE PRENUP IS GOVERNED BY French law

The court will have **no discretion whatsoever to set it aside**, unless the contract is annulled by a court order in the context of another specific procedure.

IF THE PRENUP IS GOVERNED BY Foreign law

The court must verify, should its application be challenged, that the contract complies with the **substantive and formal requirements** set out in the laws designated by our international instruments, and that its provisions are **not contrary to public policy**.

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04 - CASE STUDY

Whom do I represent?

IF I represent the husband

AS TO THE SUBSTANCE

Execution of a prenuptial agreement providing for the application of French law to the matrimonial property regime, with a separation of property regime, and for the application of German law to the spouses' maintenance obligations.

AS TO THE FORMAL REQUIREMENTS

Each spouse independently advised by a family lawyer; full financial disclosure by both parties; appointment of the notary by the wife; and written and oral translation/interpreting at the time of execution.

IF I represent the wife

Signing

a French prenuptial agreement without any formal independent legal advice and

Taking the bus

and moving to the United Kingdom as soon as she senses that circumstances are turning against her, to bring proceedings before the English courts, which would not recognize the prenuptial agreement.

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BEYOND BORDERS

By Alexandre Boiché & Associés

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Private International Law in Albania: The Case of Matrimonial Property Agreement

Family matters in Albania are primarily regulated by the Family Code, adopted in 2003. Pursuant to Article 81(2)(d) of the Albanian Constitution, codes require a three-fifths majority of the Assembly, whereas Article 78(1) establishes the ordinary majority rule.

While at EU level, Article 3(1)(b) of Council Regulation (EU) 2016/1103 of 24 June 2016 defines a “matrimonial property agreement,” the Albanian Family Code recognises the contractual regulation of matrimonial property, particularly under Articles 69 and 108–114. It permits both agreements concluded before marriage and agreements concluded during marriage modifying the existing matrimonial property regime. However, contractual autonomy is subject to mandatory limitations: spouses may not derogate from the rights and obligations arising from marriage, parental responsibility, or the rules concerning legal administration and guardianship.

While Articles 153–156 of the Civil Code of 1929 established specific rules concerning marriage between Albanian citizens and foreign nationals, including marriage concluded in Albania or abroad, the current Family Code, by contrast, contains no comparable *ad hoc* provisions. Foreign jurisdiction and the application of foreign law are nevertheless recognised under Articles 36-40 and 220 of the Albanian Civil Procedure Code.

Where a foreign element exists, Albanian Law No. 10.428 of 2 June 2011 on Private International Law becomes particularly relevant. While the form of the marriage shall be according to the law where the marriage has been concluded, Article 23 establishes connecting factors for personal relations between spouses, primarily relying on their common citizenship and, where they have different citizenships, their common habitual residence. Failing these connections, the law of the State with which the matrimonial relationship has the closest connection applies. Article 24 establishes specific rules for matrimonial property regimes, referring, *inter alia*, to the citizenship or habitual residence of either spouse and, concerning immovable property, to the law of the State where the property is situated.

Given the contractual nature of prenuptial agreements, Article 45 is also relevant, allowing parties to choose the applicable law and, subject to the applicable conditions, jurisdiction. In the absence of a choice, Article 46 provides connecting factors, including *lex situs* for immovable property under Article 46(1)(c) and, as a general contractual rule, the habitual residence of the party performing the characteristic obligation under Article 46(2).

Finally, the relationship between Albanian law and international and EU laws remains significant. Article 122 of the Constitution and Article 2 of the Law on Private International Law establish the primacy of ratified international agreements over conflicting domestic legislation. The domestic effect of EU secondary legislation, however, remains less settled. Constitutional Court Decision No. 45 of 31 July 2025 reaffirmed the relevance of EU primary law and the Stabilisation and Association Agreement, while acknowledging divergent approaches concerning the domestic effects of the *acquis communautaire*.

Private International Law in Albania: The Case of Matrimonial Property Agreement

Assoc. Prof. Ervin Pupe

Judge Supreme Court of Albania

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Overview

- ❖ Albanian Legislation
 - ❑ Citizenship vr. nationality
 - ❑ Codes vr. law
- ❖ Matrimonial Property Agreement in the Albanian Legislation
 - ❑ Civil Code of 1929
 - ❑ Family Code 2003
- ❖ Application of the Foreign Jurisdiction/Law in the Albanian Legislation
- ❖ European Harmonization of the Albanian Legislation
- ❖ Conclusions

Assoc. Prof. Ervin Pupe
Supreme Court of the Republic of Albania

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Albanian Legislation

- ❖ Citizenship vr. nationality
 - ❑ While EU law distinguishes individuals primarily by nationality, Albanian law distinguishes between nationality as an ethnic-cultural concept and citizenship as the relevant legal status.
- ❖ Codes vr. law
 - ❑ Pursuant to Article 81(2)(d) of the Albanian Constitution, codes require a three-fifths majority of the Assembly, whereas Article 78(1) establishes the ordinary majority

Assoc. Prof. Ervin Pupe
Supreme Court of the Republic of Albania

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Matrimonial Property Agreement in the Albanian Legislation

❖ Albanian Civil Code 1929

- ❑ Articles 153-156: specific rules concerning marriage between Albanian citizens and foreign nationals, including marriage concluded in Albania or abroad
- ❑ recognition of Matrimonial Property Agreement which should be asked by the civil status officer (Article 151(4))

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Supreme Court of the Republic of Albania

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Matrimonial Property Agreement in the Albanian Legislation

❖ Albanian Family Code of 2003

- ❑ Mix Interpretation of Article 69 and Articles 108-114 Family Code
 - notary contract registered in the civil status register within the contractual autonomy
 - spouses may not derogate from the rights and obligations arising from marriage, parental responsibility, or the rules governing legal administration and guardianship

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Supreme Court of the Republic of Albania

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Application of the Foreign Jurisdiction/Law in the Albanian Legislation

❖ Albanian Code of Civil Procedure

- ❑ Articles 36-40 & Article 220
 - YES
 - Also the possibility of Albanian jurisdiction but application of a foreign law.

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Supreme Court of the Republic of Albania

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Application of the Foreign Jurisdiction/Law in the Albanian Legislation

- ❖ Albanian Law No. 10.428 of 2 June 2011 on Private International Law
 - ❑ Article 22: validity of the form of the marriage
 - ❑ Article 23: the personal relations between spouses
 - common citizenship
 - common habitual residence
 - matrimonial relationship has the closest connection
 - ❑ Article 24: the matrimonial property regime
 - connecting factors for matrimonial property regimes
 - i.e. *lex situs* to immovable property

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Supreme Court of the Republic of Albania

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Application of the Foreign Jurisdiction/Law in the Albanian Legislation

- ❖ Law No. 10.428 of 2 June 2011 on Private International Law
 - ❑ Article 45: the choose of law of parties
 - attention: not against imperative rules
 - ❑ Article 46: connecting factor in the case of absence of the choose of law of parties
 - i.e. *lex situs* to immovable property

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Supreme Court of the Republic of Albania

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European Harmonization of the Albanian Legislation

- ❖ Albanian Constitutional Court
 - ❑ 1992-2025
 - 23 cases
 - 2010: Directive
 - 2013: Regulation
 - 2014: CJEU
 - 15 out 23 cases have been established after the Vetting Process
 - Decision No. 45 of 31 July 2025
 - Priority of the SAA and of EU Primary Source
 - Discussion about the Priority of the EU Secondary Source

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Supreme Court of the Republic of Albania

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European Harmonization of the Albanian Legislation

- ❖ Albanian Supreme Court
 - 2021-2025
 - 6 cases

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Supreme Court of the Republic of Albania

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Conclusions

Albanian law recognises matrimonial property agreements. Although Albania is not part of the EU, EU Regulation 2016/1103 offers an important benchmark for the further development of Albanian private international law in the context of EU accession.

Assoc. Prof. Ervin Pape
Supreme Court of the Republic of Albania

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Thank you!

Grazie Mille!

Faleminderit!

Merci!

Danke Schön!

Assoc. Prof. Ervin Pape
Supreme Court of the Republic of Albania

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TUNISIA



International
Academy of
Family Lawyers

Matrimonial Property & Private International Law

Olfa TRIKI

Advocate at the Supreme Court • PhD in Law

Tunisian law : matrimonial property, conflict of laws and divorce

Tirana, 2026

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OVERVIEW

The legal architecture

01 MATRIMONIAL
REGIME

What is the default
regime? What falls
within community
property?

02 CHOICE

How and when may
spouses choose
community property?
What law follows?

03 INTERNATIONAL
RULES

What happens when the
spouses have different
nationalities?

04 DIVORCE &
MAINTENANCE

Which conflict rules
apply to divorce and
spousal maintenance?

CASETHREAD • HENRY & MARIA

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01 | MATRIMONIAL REGIME

Default regime: separation of property

SEPARATION OF PROPERTY

The statutory matrimonial property regime.

If the spouses do not state a choice regarding the matrimonial property regime, separation of property is presumed.

LEGAL BASIS

Article 7, final paragraph
Law No. 98-94 of 9 November
1998

KEY MESSAGE No stated choice → separation of property

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02 | COMMUNITY REGIME

Optional community of property

Article 10 of Law No. 98-94 identifies the assets falling within the community. A limited community, not a universal community

IMMOVABLE PROPERTY
Acquired after marriage or after the community agreement, subject to the statutory exceptions.

FAMILY PURPOSE
The property must be intended for family use or the family's own benefit. Use may be continuous, seasonal or occasional.

ANCILLARY ASSETS
Appurtenances and fruits are ancillary community property. Purely professional immovables are excluded.

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02 | COMMUNITY REGIME

The scope can be extended

The spouses may enlarge the community by express agreement

AFTER-MARRIAGE AGREEMENT
Where the community regime is agreed by an instrument executed after the marriage certificate, the spouses may expressly include immovable property acquired from the date of marriage.

WIDER COVERAGE
The agreement may cover all their immovable property, including property acquired before marriage and property received by gift, inheritance or bequest.

HENRY • €500,000 BANK DEPOSIT remains his personal property.
Art. 10 of Law No. 98-94, paragraphs 4-5

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03 | CHOICE OF LAW

Choosing the community regime also chooses the law

01 Choose the Tunisian community regime

02 Tunisian law governs that regime

A direct statutory link between regime and applicable law

Article 2, Law No. 98-94
"Where the spouses declare that they have chosen the community of property regime, they shall be subject to the provisions of this Law."

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04 | PRACTICAL CHOICE

How is the community regime chosen?

AT MARRIAGE

The choice may be made when the marriage is celebrated.

BY SEPARATE INSTRUMENT

The choice may be made subsequently by separate instrument.

NOT A PRENUPTIAL AGREEMENT

Tunisian law does not provide for a separate prenuptial agreement specifically for choosing the matrimonial property regime.

The key distinction: at marriage or afterwards , not by a separate pre-marital agreement

IN PRACTICE

Marriage before two notaries or a civil-status officer; the public officers must ask the spouses which matrimonial property regime they have chosen.

Arts. 31, Law No. 1957-3 + Art. 7, Law No. 98-94

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05 | INTERNATIONAL MATRIMONIAL PROPERTY

If the Tunisian community regime has not been chosen

01 SAME NATIONALITY

Common national law of the spouses at the time of marriage.

02 DIFFERENT NATIONALITIES

Law of their first common domicile, if any.

03 NO FIRST COMMON DOMICILE

Law of the place where the marriage contract was concluded.

Art. 48 of the Tunisian Private International Law Code

Conflict rule hierarchy

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06 | DIVORCE

Divorce & legal separation

01 COMMON NATIONALITY

Apply the common national law in force when proceedings are instituted.

02 NO COMMON NATIONALITY

Apply the law of the spouses' last common habitual residence, where there is one.

03 OTHERWISE

The law of the forum applies.

INTERIM MEASURES

Measures taken during the proceedings are governed by Tunisian law.

Art. 49 of the Tunisian Private International Law Code

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[illegible]

08 | REFORM

1998 reform: what changed?

The diagram illustrates the 1998 reform of the optional community of property regime. It features a horizontal timeline starting from a circle labeled '1998'. A line extends from this circle to a light blue rounded rectangle containing the text 'NEW OPTION' and 'Optional community of property'. Below this, a horizontal line separates the timeline from a light orange rounded rectangle containing the text 'DEFAULT REMAINS' and 'No stated choice → separation of property'.

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[illegible]

CASE APPLICATION

Henry & Maria

HENRY
German

MARIA
British

Different nationalities

Matrimonial property
First common domicile, if any,
otherwise, place of marriage.

Default Tunisian regime
Separation of property

Divorce & maintenance
Separate conflict of laws rules.

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[illegible]

CLOSING

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Key points for the case

01

DEFAULT

Separation of property is presumed where no choice is stated.

02

COMMUNITY

The Tunisian community regime is optional and has a defined statutory scope.

03

CHOICE OF LAW

Choosing the Tunisian community regime also means choosing Tunisian law for that regime.

04

PIL

Where the Tunisian community regime is not chosen, Article 48 provides the conflict rule hierarchy.

05

DIVORCE

Divorce and maintenance are governed by distinct conflict-of-laws rules.

Henry & Maria: different nationalities + identify the first common domicile before moving to the place of marriage fallback.

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LEGAL BASIS

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Principal Tunisian sources cited

Law No. 98-94 — 9 Nov. 1998

Matrimonial community of property • Arts. 2, 7, 10

Law No. 1957-3 — 1 Aug. 1957

Civil status • Art. 31

Tunisian Private International Law Code

Matrimonial property • Art. 48 | Divorce • Art. 49 | Maintenance • Art. 51

Personal Status Code

Divorce compensation • Art. 31

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