

# Questionnaire

## *Introduction*

### **A. The family relationship**

1. What are the forms of relationship recognized by your legal system (eg. marriage, cohabitation, registered relationship, unregistered relationship, reconstituted families)?
  - 1.1 Does the relationship need the adoption of any formality in order to have legal relevance?
2. How is ownership of the family assets dealt with in the various types of relationship?
  - 2.1 Is there a mandatory regime for the family assets? Can the partners select an alternative regime? Is this choice subject to any limitation?
  - 2.2 Is there any presumption concerning the ownership of the assets purchased during the relationship?
  - 2.3 Who is in charge of managing the family assets?
  - 2.4 Does a sole partner have the power to make any arrangement concerning the family assets?
3. What are the legal effects of gifts and donations made by third parties to one or both partners during the relationship?
4. What are the legal effects of any disposal of the family assets by a partner to the other or to third parties?

### **B. Purchase and rental of the family home**

#### *1. Purchase of the family home*

- 1.1. Does a family home purchased during the relationship become part of the family assets?
- 1.2 Can the partners exclude the family home from their personal assets and/or family assets? Does such an exclusion remain valid after the breakdown of the relationship?

2 What is the relevance of taxation on the purchase of the family home?

2.1 Is financial assistance or support available to buy the family home? How is it obtained?

3.1 What forms of financing are available for the purchase of the family home (eg. mortgages, bank loans, personal loans...)? Do the partners receive any financial help from their own families?

3.2 How are these forms of financing secured?

3.3 Do the aforesaid guarantees for loans require any specific formality?

3.4 How far do the formalities above have an impact on the purchase price of the family home? What is this impact as a percentage?

3.5 Based on the statistics in your country, how does the mortgage affect the family budget as a percentage?

4. Based on the statistics in your country, is information available concerning the average age of the home buyers, and the average size of the homes purchased?

## *2. Rental of the family home*

1. Is the rental of the family home subject to any specific legislative provision?

1.2 If so, please specify time limits and legal costs for the parties.

2.1 Does any state or local authority draft standard agreements concerning the family home?

2.1.1 What are the specific requirements to fall within these agreements?

2.1.2 What benefits do these agreements provide (e.g. allowance of a minimum or of a maximum rent; conciliation or mediation to resolve disputes; pre-emption rights on the sale of the building)?

2.2 Are any financial contributions by public authorities available for the rental of the family home?

2.2.1 What are the criteria to qualify for these contributions (e.g. minimum income to qualify, permanent employment contract)?

2.2.2 If so, what percentage of the rent is covered by such a contribution?

2.3 Does the rent have to be secured by public or private warranty (e.g. bank guarantees, letters of guarantee)?

- 2.4 How do the landlord and the tenant share the operating expenses by law (ordinary/extraordinary maintenance, registration fees, etc.)?
- 2.5 If the landlord decides to sell the rented home, does the tenant have any legal protection (eg. does the rental agreement remain valid to its full term? Does the tenant have any pre-emption right over the sale?)?
- 2.6 Do any statistics exist regarding the relationship between the average family income and the cost of the rental of the family home?
- 2.7 In the last few years, has the average rent been subject to any variation?
- 2.8 Are statistics available regarding the percentage of new couples renting the family home compared to couples purchasing it?

### **C. The breakdown of the relationship**

1. Does the breakdown of the relationship influence the right to enjoyment of the family home?
  - 1.1 In the case of a breakdown of the relationship, does the law provide any specific legal provisions concerning the right to occupy the family home?
    - 1.1.1 Does the law treat differently a breakdown of the relationship between spouses and a breakdown between cohabitants?
    - 1.1.2 Does the law treat differently the breakdown of the relationship between spouses as opposed to cohabitants, in the case of occupation of a family home provided by a public or government housing agency?
  - 1.2 Does custody of the children give any priority occupation rights over the family home?
  - 1.3 Is it necessary for the partners to be living apart to legally constitute a breakdown in the relationship?
  - 1.4 How are the family assets apportioned in the case of the breakdown of the relationship? Are the court orders definitive or subject to successive modifications?
  - 1.5 Are there any significant differences between the end of a relationship between spouses as opposed to cohabitants?
2. Upon the death of one partner, does the surviving partner have the right to occupy the family home?

- 2.1 What are the nature of the rights of the surviving partner over the family home?
- 2.2 Can the deceased partner freely dispose of the family home by succession?
- 2.3 Can the surviving partner claim any occupation right over the family home?
- 2.4 Are there any differences between spouses as opposed to cohabitants?
- 2.5 Does custody of the child impact upon the surviving partner's right to occupation?
- 2.6 Does the law provide any tax exemption or other benefit for the surviving partner taking over the family home?

#### **D. The family home and third parties**

##### *1. Relevance of the partners' relationship to third parties*

1.1 Focusing on the family home, what is the legal effect upon third parties of the dissolution of the relationship (i.e. breakdown of the relationship or death of one of the partners)?

1.1.1 Does the right of occupation of a partner, in order to bind third parties, require any registration or other specific legal formality?

1.2 In the case of the bankruptcy or insolvency of a partner, can the occupation rights over the family home bind the creditors of the other partner?

1.2.1 Does the right of occupation of a partner, in order to bind the creditors of the other partner, require any registration or other specific legal formality?

1.3 Are such rights of occupation of a partner absolute, or limited to particular periods of time, such as until the children reach the age of majority?

##### *2. Special rules*

2.1 Does the law provide any particular or stringent rules in the enjoyment of the use of property for living purposes, or with regard to the ownership of the family assets of the couple?