

NORDIC COHABITATION LAW

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PREFACE

Cohabitation is now widely and socially accepted in the Nordic countries. Legal distinctions between spouses and cohabitants are less and less frequent. This development has probably enticed some cohabitants to believe that they have a legal protection in a similar way as spouses – but they don't. With the exception of Sweden, and to a certain extent Finland, the regulation of cohabitation in the Nordic countries is characterised by non-statutory law and discretionary compensation rules. Litigation in the wake of dissolved cohabitation testifies to a complex and often unclear legal situation, where some cohabitants risk leaving a long-term relationship empty-handed.

This book gives an account of the rules on cohabitation in all five Nordic countries. It describes *inter alia* the regulation concerning property law during cohabitation and on the financial settlement after the dissolution of cohabitation as well as the main features of inheritance law and child rights legislation for cohabitants. The legal developments towards the current state of the law are also described. Against this background the question is raised whether the current rules in the Nordic countries are capable of solving the problems that arise in this legal context. In a final chapter the book includes suggestions for legal principles for the regulation of cohabitation.

The aim of the book is twofold. It gives an overall legal representation of the rules of cohabitation which can be useful both for lawyers, judges and other legal practitioners. But the discussion of legal policy and suggestions for solutions could be of interest for politicians and lawmakers interested in the Nordic region. Since legal culture and demographics are fairly uniform in the Nordic countries, it is possible to draw fruitful parallels between countries – in this field of law the Nordic countries can learn from each other, but others can also learn from us. The Nordic countries could actually be seen as a test case for different approaches to regulation of cohabitation.

The book is written by a group of Nordic professors including John Asland, University of Oslo; Margareta Brattström, Uppsala University; Göran Lind, Örebro University; Ingrid Lund-Andersen, University of Copenhagen; Anna Singer, Uppsala University; and Tone Sverdrup, University of Oslo. Professor Urpo Kangas, University of Helsinki and Professor Hrefna Friðriksdóttir, University of Iceland have made important contributions to the description of, respectively, Finnish and Icelandic law. Judge and adjunct professor Svend

Danielsen, Copenhagen, has read and commented the Danish sections. We are very grateful for the help we have received from our Nordic colleagues.

The various chapters of the book have an individual author, but contributions have been written in close cooperation and we all stand behind the concluding principles for the regulation of cohabitation. The book was previously published in the Scandinavian languages by Gyldendal Forlag in 2014. In the present work material available in March 2015 has been considered. Material available after that time has only rarely been taken into account.

Copenhagen, Oslo and Uppsala
June 2015

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CONTENTS IN BRIEF

<i>Preface</i>	v
<i>Table of Cases</i>	xv
<i>List of Abbreviations</i>	xix
Chapter 1. The Development of Cohabitation and Cohabitation Law in the Nordic Countries	
Göran LIND	1
Chapter 2. Property Issues in Cohabitation Relationships	
Margareta BRATTSTRÖM	57
Chapter 3. Financial Settlements on Termination of Cohabitation	
Ingrid LUND-ANDERSEN	109
Chapter 4. The Legal Position of the Surviving Cohabitant	
John ASLAND	161
Chapter 5. The Relevance of Cohabitation for Parental Rights	
Anna SINGER	211
Chapter 6. The Distinctive Legal Nature of Cohabitation Relationships and the Need for Legislation	
Tone SVERDRUP	241
Chapter 7. Discussion of Legal Policy: Principles for Regulating Cohabitation Relationships	
Ingrid LUND-ANDERSEN	267
<i>References</i>	283
<i>About the Authors</i>	289

CONTENTS

<i>Preface</i>	v
<i>Table of Cases</i>	xv
<i>List of Abbreviations</i>	xix

Chapter 1. The Development of Cohabitation and Cohabitation Law in the Nordic Countries.

1

1.1. Introduction	1
1.2. Family Formation Trends	3
1.2.1. General Remarks	3
1.2.2. Marriage Rate	3
1.2.3. The Percentage of Children Born Outside Marriage	5
1.2.4. The Percentage of Unmarried Cohabitants	6
1.2.5. Cohabitation as a Social Phenomenon	8
1.3. Development of the Law and its Underlying Values	10
1.3.1. Swedish Law	12
1.3.2. Norwegian Law	20
1.3.3. Danish Law	29
1.3.4. Finnish Law	36
1.3.5. Icelandic Law	40
1.4. Definitions	40
1.4.1. In General	40
1.4.2. Swedish Law	41
1.4.3. Norwegian Law	44
1.4.4. Finnish Law	47
1.4.5. Danish Law	49
1.4.6. Icelandic Law	51
1.5. General Basis for Harmonisation of Nordic Law on Cohabitation	51

Chapter 2. Property Issues in Cohabitation Relationships

57

2.1. Introduction	57
2.2. Title	59
2.2.1. General Principles of the Law of Property	59
2.2.2. Title Based on Family Law	60

2.2.3.	The Concealed Right of Co-Ownership in Sweden	66
2.2.4.	Co-Ownership through Acquisition Contribution in Norway . . .	71
2.3.	Consequences of Title	75
2.3.1.	Disposal	75
2.3.2.	Costs and Income Connected with Co-Owned Property.	81
2.4.	Agreements between Cohabitants.	83
2.4.1.	General Remarks	83
2.4.2.	Agreements with Restrictive Clauses.	85
2.4.3.	Purchase Agreements	86
2.4.4.	Gifts and Gift Undertakings	90
2.4.5.	Debt Issues	93
2.4.6.	Agreement Prior to Future Dissolution of the Relationship.	96
2.4.7.	Adjustment of Agreements between Cohabitants	100
2.5.	Claims against a Cohabitant	100
2.5.1.	Distrain on Property	100
2.5.2.	Effects of Distrain upon Co-Owned Property	104
2.5.3.	Insolvency and Recovery	105
2.6.	Summary.	106
Chapter 3. Financial Settlements on Termination of Cohabitation		109
3.1.	Introduction: The Main Feature of the Legal Status of Cohabitants	109
3.2.	Foreign Law.	111
3.3.	Calculating Assets and Liabilities.	114
3.3.1.	The Cohabitation Act in Sweden.	114
3.3.2.	Finnish Act on the Dissolution of the Household of Cohabiting Partners	117
3.3.3.	Claims for Compensation in Denmark	119
3.3.4.	Property Law Claims in Denmark	122
3.3.5.	Claims for Compensation in Norway	124
3.3.6.	Claims for Compensations in Finland.	127
3.3.7.	Claims for Compensation and Property Law Claims in Iceland	128
3.3.8.	Unjust Enrichment, Remuneration, etc. in Sweden.	129
3.3.9.	The Same Legal Situation Judged under the Law of the Other Nordic Countries	131
3.3.10.	Summary and Legal Policy Considerations: The Financial Settlement.	133
3.4.	The Right to Take Possession of Assets	135
3.4.1.	The Cohabitation Act in Sweden.	137
3.4.2.	Household Community Act in Norway.	139
3.4.3.	No Legislative Provision on Possessory Rights	141

3.4.4.	Assets Owned in Common	142
3.4.5.	Summary and Legal Policy Considerations	143
3.5.	Formal Rules for Accounting and Division of Property: Prior Agreements and Amendments of Agreements	147
3.5.1.	Assistance of an Administrator and Court Proceedings	147
3.5.2.	Termination of Cohabitation: Limitation Period for the Division of Property	150
3.5.3.	Obligation to Inform about Financial Circumstances	152
3.5.4.	Prior Agreements and Agreements on the Division of Property	153
3.5.5.	Setting Aside and Amending Agreements	156
3.5.6.	Summary and Legal Policy Considerations	157
Chapter 4.	The Legal Position of the Surviving Cohabitant.	161
4.1.	Introduction: The Development of the Legal Position of the Surviving Cohabitant.	161
4.2.	The Cohabitant's Right to Inheritance by Intestate Succession: Norway	166
4.2.1.	Introduction	166
4.2.2.	The Definition of Cohabitants in the Inheritance Act.	166
4.2.3.	Right to Inheritance by Intestate Succession for Cohabitants with Children Together	173
4.3.	The Power of Testation of Cohabitants.	175
4.3.1.	Introduction	175
4.3.2.	Expanded Right of Testation for Certain Cohabitants without Children Together: Norway	176
4.3.3.	Extended Cohabitant's Wills: Denmark	176
4.4.	The Right of the Surviving Cohabitant to Assume Undivided Possession of the Estate: Norway.	182
4.4.1.	Terms on which a Cohabitant May Assume Undivided Possession of the Estate	182
4.4.2.	The Procedure	182
4.4.3.	Scope of the Cohabitant's Undivided Possession of the Estate ..	183
4.4.4.	The Relationship with the Rules regarding Undivided Possession for Spouses	186
4.4.5.	Division of the Cohabitant's Undivided Estate.	188
4.5.	Protection through Legal Rules regarding Family Assets.	188
4.5.1.	Sweden: Division of the Estate according to Section 8 of the Cohabitation Act	188
4.5.2.	Finland: Support pursuant to Section 8 Subsection 2 of the Inheritance Code	189
4.6.	Claims for Compensation, Payment or Enrichment	191

4.7. Rules Regarding Property Distributed in Kind in Favour of the Surviving Cohabitant	193
4.8. Protection through Life Insurance	195
4.9. Inheritance Tax	201
4.10. Summary and Conclusions	203
Chapter 5. The Relevance of Cohabitation for Parental Rights	211
5.1. Introduction – Equal or Unequal	211
5.2. Parental Status	212
5.2.1. Introduction	212
5.2.2. Legal Paternity	215
5.2.3. Adoption	220
5.2.4. Assisted Reproduction	222
5.2.5. Parenthood for Same-Sex Cohabitants	223
5.2.6. Summary	225
5.3. Parental Rights	226
5.3.1. Custody or Parental Responsibility	226
5.3.2. Contact	228
5.3.3. Child Maintenance	229
5.3.4. Summary – Discussion	231
5.4. Public Financial Support for Children in Cohabiting Families	231
5.4.1. Introduction – Background	231
5.4.2. Cohabitants’ Duty to Maintain Each Other	233
5.4.3. Financial Support for Families with Children	234
5.4.4. Social Services Charges – Pre-School Childcare	236
5.4.5. Financial Support for Older Children and Students	237
5.5. Discussion – Different Ways of Being the Same	238
Chapter 6. The Distinctive Legal Nature of Cohabitation Relationships and the Need for Legislation	241
6.1. Point of Departure	241
6.2. The Distinctive Features of Cohabitation Relationships	244
6.2.1. Economic Mechanisms in Couple Relationships: Indirect Contributions	244
6.2.2. The Contract Mechanism for Determining Ownership	250
6.3. How Appropriate are Present-Day Settlement Rules in the Nordic Countries?	257
6.3.1. Rules for Division of Assets in Sweden	257
6.3.2. Compensation Rules	258
6.4. The Cohabitation Contract as an Alternative to Legislation	261
6.5. Conclusion	264

Chapter 7. Discussion of Legal Policy: Principles for Regulating Cohabitation Relationships. 267

7.1. Introduction 267

7.2. Proposed Principles. 269

 7.2.1. Unmarried Cohabiting Couples with and without a Child in Common. 273

 7.2.2. Division of Property 275

 7.2.3. Inheritance Rights. 277

 7.2.4. Possession of a Joint Dwelling and Household Goods 278

 7.2.5. Agreements Made during Cohabitation 279

7.3. Principles for the Regulation of the Financial Circumstances of Cohabitants (Cohabitation Act) 280

References 283

About the Authors 289

TABLE OF CASES*

DENMARK

U 1971.335 VK	101
U 1972.751 H	123, 157
U 1979.808 Ø	96
U 1979.813 ØK	85
U 1980.480 H	65, 119, 122, 131
U 1982.93 H	121
U 1984.166 H	120, 274
U 1985.55 H	119
U 1985.607 H	121, 131, 134
U 1986.435 H	122
U 1986.765 H	122
U 1988.778 H	101
U 1988.998 H	119
U 1993.620 V	123
U 1996.1401 V	97
U 1998.252 V	123
U 2002.102 V	123
U 2006.544 H	123
U 2008.625 HD	79
TFA 1999.101 V	62
TFA 1999.185 Ø	123
TFA 2001.478 V	143
TFA 2008.539 V	123

FINLAND

HD 1966 II 96	63
HD 1967 II 12	78
HD 1985 II 31	82, 83

* For ease of reference in an English-language publication, 'p.' (page) has been used instead of 's.' (sida). When searching for cases in external sources, the reader may find it helpful to use 's.' rather than 'p.'.

HD 1985 II 167	64
HD 1986 II 103	65, 71
HD 1988:28	127
HD 1988:85	65, 71
HD 1992:48	60, 62, 63, 71
HD 1992:168	103
HD 1993:168	127, 132
HD 2000:114	84
Nordisk Domssamling 1988 p. 97	127
Nordisk Domssamling 1988 p. 99	127
Nordisk Domssamling 1993 p. 769	127
Helsingfors hovrätt 293.9.2013 Nro 2512 Drno S 12/3203	118
Östra-Finlands hovrätt 16.1.2014 Nro 23 S 13/789	118

ICELAND

Hrd. 1981:128	75, 128
Hrd. 1982:1141	128, 165
Hrd. 1990:1581	165
Hrd. 2004:1981	65, 129
Hrd. 2005:3157	129
Hrd. 2006:2531	129
Hrd. 2006:2735	129
Hrd. 2007:200	129
Hrd. 2007:650	64
Hrd. 2008:302	129
Hrd. 2011:53	64
Hrd. 2012:204	129

NORWAY

Rt. 1956 p. 264	71
Rt. 1966 p. 874	71
Rt. 1975 p. 220	72, 73, 246, 255
Rt. 1976 p. 694	246
Rt. 1978 p. 871	71
Rt. 1978 p. 1352	58, 71, 74, 246, 255
Rt. 1979 p. 1375	75
Rt. 1980 p. 1403	71, 246
Rt. 1982 p. 666	75

Rt. 1982 p. 1102.....	71, 74
Rt. 1983 p. 1146.....	246
Rt. 1984 p. 497	71, 72, 73, 74, 124, 192, 255
Rt. 1989 p. 539.....	192
Rt. 1999 p. 177.....	64, 253
Rt. 1999 p. 901.....	103
Rt. 2000 p. 585	103
Rt. 2000 p. 1089	125, 126, 192
Rt. 2011 p. 149.....	73
Rt. 2011 p. 1168.....	82, 124, 125, 126, 164, 192, 242, 260
Rt. 2011 p. 1176.....	124, 164, 192
RG 1998 p. 1014	157
LH-2008-172266	170

SWEDEN

NJA 1929 p. 225	86
NJA 1932 p. 290	86
NJA 1940 p. 112	86
NJA 1950 p. 513	98
NJA 1959 p. 456	63
NJA 1962 p. 669	91
NJA 1971 p. 516	86, 89
NJA 1974 p. 314.....	86, 89
NJA 1975 p. 298	97, 130
NJA 1977 p. 160	82
NJA 1980 p. 705	63, 69, 77, 89
NJA 1981 p. 693	67, 69, 70
NJA 1982 p. 589	67, 70, 251
NJA 1983 p. 550	88, 89
NJA 1983 p. 826	247
NJA 1984 p. 772	81, 103
NJA 1985 p. 97	81
NJA 1985 p. 172	96
NJA 1985 p. 615	103
NJA 1986 p. 258	66, 67
NJA 1986 p. 513	94
NJA 1986 p. 516	65
NJA 1988 p. 197	67
NJA 1989 p. 114	88
NJA 1991 p. 367	104

NJA 1992 p. 163	68
NJA 1993 p. 324	104
NJA 1994 p. 61	172
NJA 1994 p. 256	42, 168
NJA 1995 p. 478	80
NJA 1998 p. 545	87, 91
NJA 2001 p. 509	103
NJA 2002 p. 3	67, 70
NJA 2002 p. 142	66, 68
NJA 2003 p. 650	116
NJA 2004 p. 542	115
NJA 2006 p. 206	138
NJA 2008 p. 826	66, 68, 71
NJA 2008 p. 1053	68, 77
NJA 2011 p. 399	82, 83
NJA 2012 p. 377	64, 70
NJA 2013 p. 242	66, 67, 70
NJA 2013 p. 602	148
NJA 2013 p. 632	66, 89, 95
SvJT 1974 p. 71	69
SvJT 1977 p. 2	69
RH 1984:59	89
RH 1989:56	173
RH 1991:23	70
RH 2000:93	103
RH 2005:28	42
RH 2005:34	42, 43

LIST OF ABBREVIATIONS

Dk	Danmark (<i>Denmark</i>)
El	Ekteskapsloven, lov om ekteskap av 4. juli 1991 nr. 47 (Norge) (<i>Marriage Act, Norway</i>)
FAB	Tidsskrift for familierett, arverett og barnevernrettslige spørsmål (<i>Journal of Family Law, Inheritance and Child Law Issues, Norway</i>)
Fi	Finland
HD	Högsta domstolen (<i>Swedish Supreme Court</i>)
HD	Högsta domstolen (<i>Finnish Supreme Court</i>)
Hrd and HrD	Høyesterettsdom, (<i>Supreme Court Judgment, Iceland</i>)
Int.J.L. Pol. and Fam.	<i>International Journal on Politics and the Family</i>
Is	Island (<i>Iceland</i>)
J. Mar. & Fam.	<i>Journal of Marriage and Family</i>
JB	Jordabalk (1970:994) (<i>Land Code, Sweden</i>)
JP	Juridisk Publikation (<i>Legal Publikation, Sweden</i>)
JT	Juridisk Tidskrift (<i>Legal Journal, Sweden</i>)
LoR	Lov og Rett (<i>Norwegian Law</i>)
NJA	Nytt Juridisk Arkiv (<i>Periodical containing the cases reported from the Swedish Supreme Court</i>)
NJA II	Nytt Juridisk Arkiv (<i>Periodical containing summaries of travaux préparatoires in Sweden</i>)
No	Norge (<i>Norway</i>)
NOU	Norges offentlige utredninger (<i>Government Committee Reports, Norway</i>)
Ot.prp.	Odelstingproposisjon (<i>Legislative Bill to the Odelsting, one of the two chambers of the Norwegian Parliament</i>)
p.	page*
Prop.	Proposition/Proposisjon (<i>Legislative Bill, Sweden, Norway</i>)
RH	Hovrätterna (<i>Cases from the Courts of Appeal, Sweden</i>)
RP	Regeringsproposition (<i>Legislative bill, Finland</i>)

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Rt.	Norsk Retstidende (<i>Periodical containing the cases reported from the Norwegian Supreme Court</i>)
RVL	Retsvirkningsloven, Lovbekendtgørelse nr. 37 af 5. januar 1995 om ægteskabets retsvirkninger (Danmark) (<i>Legal Effects of Marriage Act, Denmark</i>)
Sc.St.L.	<i>Scandinavian Studies in Law</i>
SCB	Statistiska centralbyrån (<i>Statistics Sweden</i>)
SOU	Statens offentliga utredningar (<i>Swedish Government Official Reports</i>)
SSB	Statistisk centralbyrå (<i>Statistics Norway</i>)
St.meld.	Stortingsmelding (<i>White Paper, orientations of the Parliament by the Government, Norway</i>)
Sv	Sverige (<i>Sweden</i>)
TFA:	Tidsskrift for Familie- og Arveret (<i>Journal of Family Law and Succession Law, Denmark</i>)
TFR	Tidsskrift for Rettsvitenskap (<i>Journal of Jurisprudence, Norway</i>)
U	Ugeskrift for Retsvæsen (<i>Weekly Law Journal, Denmark</i>)
UB	Utsökningsbalk (15.6.2007/705) and Utsökningsbalk (1981:774) (<i>Enforcement Proceedings Act, Finland and Sweden</i>)
ÄktB	Äktenskapsbalk (1987:230) (<i>Marriage Code, Sweden</i>)
ÆL	Ægteskabsloven, Lovbekendtgørelse nr. 147 af 9. marts 1999 om ægteskabs indgåelse og opløsning (<i>Marriage Act, Denmark</i>)
ÄL	Äktenskapslag (13.6.1929/234) (<i>Marriage Act, Finland</i>)