

# Marriage in Ecuador

## (Rights and Duties for Foreigners)



I have been consulted many times about the rights and obligations of married expats, who have gotten married outside Ecuador and have chosen to make Ecuador their new home. This may be currently one of the most common concerns about starting this new adventure of living in Ecuador.

Therefore it is important to clarify that the Ecuadorian civil code grants the same civil rights to those marriages celebrated abroad, as to those celebrated on Ecuadorian soil, as long as they comply with the laws of this country.

Article 103 of the Ecuadorian Civil Code states “Foreign married couples that are domiciled in Ecuador, are subject to the obligations established by this Code, and are entitled to the rights granted by the same.”

### **But how does one come to “be domiciled” in Ecuador?**

Foreigners are considered to be domiciled in Ecuador at the moment that they obtain their cedula (national identification card) within 30 days of obtaining their residency visas. (Article 108 of the Civil Registry and Cedula Process Law)

### **But where do you register a marriage celebrated outside Ecuador?**

Marriages celebrated abroad, between foreigners, are to be registered in the office of the Civil Registry for Identification and Cedula Processing closest to the place where the couple is residing in Ecuador, once both spouses have residency status in the Republic of Ecuador, according to the provisions of the Law of Foreign Affairs. The marriage is registered by recording information from the authenticated (apostilled) and legally translated Marriage Certificate. (Article 37 of the Civil Registry and Cedula Process Law) In Ecuador, marriage, as a fundamental societal institution is constituted based on equality in rights and duties.

In terms of property, Ecuadorian Legislation initially recognizes marriages celebrated abroad as property-separate, as long as the couple was married without declaring joint property ownership from the beginning.

## **Buying and Selling Assets**

For the purchase of goods and/or property rights, as a general rule, the marital partnership is seen as somewhat of a business entity. Thus, it is understood that said assets are going to contribute to the increase of the “net value” of the marital partnership, and therefore the signature of just one of the spouses is sufficient to complete the acquisition.

For the sale of the goods of the married couple, it is a different story, and the law specifically establishes that the consent of both spouses will be necessary, especially for the sale of real estate, vehicles or shares in a company. It is therefore important to take into account the marital status of the seller when reviewing a contract for a property you may be buying, to avoid conflicts in the future, because if a married couple is selling and both spouses do not sign, the contract will be null and void.

## **Marital Property Agreements**

Are civil contracts signed between spouses before, during, or after legal marriage, which establish the independence of the assets of the spouses. Thus the basic rule of consent for the sale of goods (by signature of both spouses) is nullified. Marital property agreements should be registered in the property registry, where they will be recorded in the margin of the original marriage contract. Any married person who may want to sell property must justify the registration of a marital property agreement by presenting the annotated marriage contract before the notary and property registry.

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