

## Migration and legal family formats in Austria

by Helmut Graupner<sup>1</sup>

*The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*

Edited by Kees Waaldijk,<sup>2</sup> Marie Digoix,<sup>3</sup> Natalie Nikolina,<sup>2</sup> Giuseppe Zago,<sup>2</sup> Daniel Damonzé,<sup>2</sup> Arianna Caporali,<sup>3</sup> Kamel Nait Abdellah<sup>3</sup>

Published by INED, Paris, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu)

Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 4 – Migration)

© 2017 Helmut Graupner

<sup>1</sup> Dr. Helmut Graupner ([www.graupner.at](http://www.graupner.at), attorney-at-law in Vienna; Co-Coordinator, European Commission on Sexual Orientation Law (ECSOL); Director, ILGLaw Europe; President, Rechtskomitee LAMBDA (RKL); Co-President, Austrian Society for Sexologies) is grateful for the useful comments that MMag. Maria Sagmeister (University of Vienna) made on an

earlier version of the answers in this section of the database.

<sup>2</sup> [Grotius Centre for International Legal Studies](#), Leiden University, Netherlands, [www.leiden.edu](http://www.leiden.edu).



<sup>3</sup> Institut national d'études démographiques, Paris, France, [www.ined.fr](http://www.ined.fr).

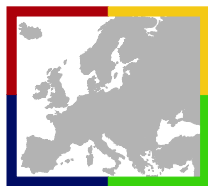


**Recommended citation:**

H. Graupner, 'Migration and legal family formats in Austria', in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu) (question 4.x).

## Acknowledgment

The research leading to these results has received funding from the European Union's Seventh Framework Programme (FP7/2007-2013) under grant agreement no. 320116 for the research project FamiliesAndSocieties, [www.familiesandsocieties.eu](http://www.familiesandsocieties.eu).



# FamiliesAndSocieties

## Disclaimer

This paper and this database contain information with a scientific aim. Nothing in this paper and in this database should be seen as legal advice. Not all nuances and exceptions are included, and there may be errors and further legal developments. The experts, the authors, the editors, the Institut national d'études démographiques and Leiden University cannot be held liable for any inaccurate or incomplete information in this paper or in this database. More particularly, they cannot be held liable for any damage or consequences from the direct or indirect use of contents of this paper or database.

## The six sections of the questionnaire

The [interactive LawsAndFamilies Database](http://www.LawsAndFamilies.eu) is based on the [LawsAndFamilies questionnaire](http://www.LawsAndFamilies.eu), which consists of six sections:

- Section 1 – Formalisation
- Section 2 – Income and troubles
- Section 3 – Parenting
- Section 4 – Migration
- Section 5 – Splitting up
- Section 6 – Death

## Papers and an interactive database

For each jurisdiction there are therefore six papers like this one. And each of these papers contains the full answers, references and explanations (given by

a legal expert for the jurisdiction concerned) to the questions in one of these six sections. All these papers can be found in open access at [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu). There the user also has access to the [interactive part of the LawsAndFamilies Database](http://www.LawsAndFamilies.eu), which can be used to search the whole database and to create comparative overviews for different questions, different years, different countries and/or different legal family formats.

This website also contains references to publications analysing the results of the project, and to some other legal, sociological and statistical publications about same-sex and different-sex families. And it gives information about the methodology used for this questionnaire and database.

## About the questionnaire

The [full text of the questionnaire](http://www.LawsAndFamilies.eu) can be found in the paper: K. Waaldijk, J.M. Lorenzo Villaverde, N. Nikolina & G. Zago, 'The LawsAndFamilies questionnaire on legal family formats for same-sex and/or different-sex couples: Text of the questions and of the accompanying guidance document', *FamiliesAndSocieties Working Paper* 64(2016), [www.familiesandsocieties.eu](http://www.familiesandsocieties.eu).

The [Guidance document](http://www.LawsAndFamilies.eu) contained in that paper, asked the experts answering the questionnaire to make several assumptions. These included the assumption that the partners have been living together as a couple already for at least two years. Plus the assumption (except for certain questions in Section 4 – Migration) that both partners have the citizenship of the country where they are now both lawfully and habitually residing, and that this is also the country where their relationship would have been formalised and where it would be dissolved.

## About the answers

This paper contains the answers, references and explanations – for one jurisdiction – to all questions in one of the six sections of the questionnaire. The answers are presented in columns. Each column is a coloured timeline, representing legal developments for one question for one legal family format.

The year at the top of each coloured timeline is the most recent year for which a question was answered by the author. In the timelines the years given above and below an answer indicate that the answer applied between a certain day in the lower year and a certain day in the higher year. The year "0000" means that the answer applied since an unknown year before 1965. See further the [Guidance document](http://www.LawsAndFamilies.eu).

The following **answer codes and colours** have been used:

Yes	Yes, this is so in the law of this country/jurisdiction, although possibly with a qualifying period of 24 months or less.
Yes, but	Yes, but with exceptions or restrictions, for example a qualifying period of 25 months or more, or only in most parts of the country/jurisdiction, or this is mostly a “dead letter”.
No, but	No, but it may be so exceptionally, or in a very limited way, or in a few parts of the country/jurisdiction, or indirectly, or by using a different legal instrument, or legislation says no while some courts might say yes.
No	No, this is not so in the law of this country/jurisdiction.
Doubt	The law is unclear (the law does not “know” the answer).
?	No information was available.
N/A	Not applicable (for example because this family format is not available in this jurisdiction, or not for same-sex or different-sex couples).
X	This question was not asked for this legal family format.
Open question	Question without answer codes like Yes and No.
Empty cell	For this year the question was not asked or not answered.

### The six papers about Austria

The answers concerning Austria can be found in the [interactive database](#) and in the following six papers (all of which are published in open access in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu)):

#### **Formalisation of legal family formats in Austria by Helmut Graupner (Section 1)**

#### **Income, troubles and legal family formats in Austria by Helmut Graupner (Section 2)**

#### **Parenting and legal family formats in Austria by Helmut Graupner (Section 3)**

#### **Migration and legal family formats in Austria by Helmut Graupner (Section 4)**

#### **Splitting up and legal family formats in Austria by Helmut Graupner (Section 5)**

#### **Death and legal family formats in Austria by Helmut Graupner (Section 6)**

So this paper is based on **Section 4 (Migration)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 4.1 Partner of national citizen**
- 4.2 Partner of national citizen (foreign status)**
- 4.3 Partner of (non-EU) foreigner**
- 4.4 Partner of EU citizen (foreign status)**
- 4.5 Foreign status as impediment to marry**
- 4.6 Foreign status and inheritance**
- 4.7 Citizenship**
- 4.8 Recognition of joint adoption**
- 4.9 Recognition of second-parent adoption**
- 4.10 General background regarding migration**

In the following pages of this paper, first the answer to question 4.10 is presented, followed by the answers to questions 4.1 to 4.9.

**4.10 - General background regarding migration (Open question)**

If you consider it useful to provide some general information or comments about (past, present or future) developments and trends in legal policy and case law in your country/jurisdiction, or information on other aspects (socio-legal, political, legal-cultural, etc.) that may be relevant for the understanding your answers above regarding migration, then please do so here.

–

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.01 - Partner of national citizen**

When one partner is a residing national citizen, while the other is a foreigner from another continent, will the foreign partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside. As to the meaning of 'residing', see section c of the [Guidance for experts answering questions in the questionnaire](#).)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes 2010	2016 Yes 2005	2016 Yes 2005
			N/A 0000	? 0000	? 0000
<b>References to legal sources:</b> Art. 2(1)(9) & Art. 47(2) Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).		<b>References to legal sources:</b> Art. 2(1)(9) & Art. 47(2) Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).		<b>References to legal sources:</b> Art. 2(1)(9) & Art. 47(3) Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.02 - Partner of national citizen (foreign status)**

When one partner is a residing national citizen, while the other partner is a foreigner from another continent, and this couple married/registered in the country of the foreigner, will the foreign partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 Yes, but 2010	2016 Doubt 1998	2016 Yes 2010	X	X
	Doubt 2001	N/A 0000	Doubt 1989	X	X
	N/A 0000		N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 2(1)(9) &amp; Art. 47(2) Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).</p> <p>Art. 16(2) IPR-Gesetz (International Private Law Act).</p>		<p><b>References to legal sources:</b>                      Art. 2(1)(9) &amp; Art. 47(2) Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p> <p>Art. 27a IPR-Gesetz (International Private Law Act) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p>			
<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign same-sex marriages. From 2010 foreign same-sex marriages are recognised as registered partnerships at least.</p>		<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign different-sex registered partnerships.</p>			

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.03 - Partner of (non-EU) foreigner**

When both partners are foreigners from another continent, and one of them is residing in the country, will the other partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes 2010	2016 No 0000	2016 No 0000
			N/A 0000		
<b>References to legal sources:</b> Art. 2(1)(9) & Art. 46 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).		<b>References to legal sources:</b> Art. 2(1)(9) & Art. 46 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005); as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).		<b>References to legal sources:</b> Art. 2(1)(9) & Art. 46 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	



Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.04 - Partner of EU citizen (foreign status)**

When one partner is a foreign EU citizen who is residing in the country, while the other is a foreigner from another continent, and this couple married/registered/cohabited in the country of the EU citizen, will the non-EU partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1995	2016 Yes 2005	2016 Yes 2005	2016 Yes 2005	2016 Yes 2005	2016 Yes 2005
Yes 0000	No 2001	No 1998	No 1989	No 0000	No 0000
	N/A 0000	N/A 0000	N/A 0000		

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 2(1)(9) &amp; Art. 54 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).</p> <p>Art. 16(2) IPR-Gesetz (International Private Law Act).</p>		<p><b>References to legal sources:</b>                      Art. 2(1)(9) &amp; Art. 54 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p> <p>Art. 27a IPR-Gesetz (International Private Law Act) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p>		<p><b>References to legal sources:</b>                      Art. 2(1)(9) &amp; Art. 56 Niederlassungs- und Aufenthaltsgesetz (Settlement and Residence Act) (Bundesgesetzblatt 2005, Nr. 100, in force from 16 August 2005).</p>	
<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b></p>	

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.05 - Foreign status as impediment to marry**

When the couple got married or registered abroad, will this relationship then be recognised as an impediment to marry someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 Yes, but 2010	2016 Doubt 1998	2016 Yes 2010	X	X
	Doubt 2001	N/A 0000	Doubt 1989	X	X
	N/A 0000		N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 24 Ehegesetz (Marriage Act) (deutsches Reichsgesetzblatt 1938 I page 807, in force from 1 August 1938).</p> <p>Art. 16(2) Bundesgesetz vom 15. Juni 1978 über das internationale Privatrecht (IPR-Gesetz) (International Private Law Act) Bundesgesetzblatt Nr. 304/1978 as in force from 01 January 1979.</p>		<p><b>References to legal sources:</b>                      Art. 24 Ehegesetz (Marriage Act) (deutsches Reichsgesetzblatt 1938 I page 807, in force from 1 August 1938) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p> <p>Art. 27a IPR-Gesetz (International Private Law Act) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p>			
<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign same-sex marriages. From 2010 foreign same-sex marriages are recognised as registered partnerships at least.</p>		<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign different-sex registered partnerships.</p>			

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.06 - Foreign status and inheritance**

When the couple got married or registered abroad, will this relationship then be recognised as regards inheritance in the absence of a testament?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 Yes, but 2010	2016 Doubt 1998	2016 Yes 2010	X	X
	Doubt 2001	N/A 0000	Doubt 1989	X	X
	N/A 0000		N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 757 Allgemeines Bürgerliches Gesetzbuch (General Civil Code) (Justizgesetzsammlung 1811, Nr. 946, in force from 1 January 1812).</p> <p>Art. 16(2) Bundesgesetz vom 15. Juni 1978 über das internationale Privatrecht (IPR-Gesetz) (International Private Law Act) Bundesgesetzblatt Nr. 304/1978 as in force from 01 January 1979.</p>		<p><b>References to legal sources:</b>                      Art. 537a &amp; 757 Allgemeines Bürgerliches Gesetzbuch (General Civil Code) (Justizgesetzsammlung 1811, Nr. 946, in force from 1 January 1812) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p> <p>Art. 27a IPR-Gesetz (International Private Law Act) as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).</p>			
<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign same-sex marriages. From 2010 foreign same-sex marriages are recognised as registered partnerships at least.</p>		<p><b>Explanations and nuances:</b>                      No statutory regulation and no case-law on recognition of foreign different-sex registered partnerships.</p>			

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.07 - Citizenship**

Does a relationship of this type make it easier for a foreign partner to obtain citizenship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes 2010	2016 No 0000	2016 No 0000
			N/A 0000		
<b>References to legal sources:</b> Art. 11a Staatsbürgerschaftsgesetz (Citizenship Act) (Bundesgesetzblatt 1985, Nr. 311, in force from 1 August 1985).		<b>References to legal sources:</b> Art. 11a & Art. 60 Staatsbürgerschaftsgesetz (Citizenship Act) (Bundesgesetzblatt 1985, Nr. 311, in force from 1 August 1985), as amended by law of 30 December 2009 (Bundesgesetzblatt 2009, Nr. I 135, in force from 1 January 2010).		<b>References to legal sources:</b> Staatsbürgerschaftsgesetz (Citizenship Act) (Bundesgesetzblatt 1985, Nr. 311, in force from 1 August 1985).	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.08 - Recognition of joint adoption**

When the partners have jointly adopted a child while residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes 2016	2016 Yes 2016	2016 Yes 2016
			Doubt 2010	Doubt 0000	Doubt 0000
			N/A 0000		



Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>            Art. 91a Außerstreitgesetz(Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p>		<p><b>References to legal sources:</b>            Art. 91a Außerstreitgesetz(Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p> <p>Judgment Verfassungsgerichtshof (Constitutional Court) of 11 December 2014 (Bundesgesetzblatt 2015, Nr. I 25, in force from 1 January 2016).</p>		<p><b>References to legal sources:</b>            Art. 91a Außerstreitgesetz(Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p> <p>Judgment Verfassungsgerichtshof (Constitutional Court) of 11 December 2014 (Bundesgesetzblatt 2015, Nr. I 25, in force from 1 January 2016).</p>	
<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            The 2014 judgment repealed the ban of joint and successive adoption by other couples than opposite-gender married couples.</p>		<p><b>Explanations and nuances:</b>            The 2014 judgment repealed the ban of joint and successive adoption by other couples than opposite-gender married couples.</p>	

Jurisdiction: **Austria**

Source: **H. Graupner**, "Migration and legal family formats in Austria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-AT-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.09 - Recognition of second-parent adoption**

When one partner has become the second parent of a child of the other partner, by way of adoption while the partners were residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 Yes 2013	2016 Yes 0000	2016 Yes 2013
			Doubt 2010		Doubt 0000
			N/A 0000		
<p><b>References to legal sources:</b> Art. 91a Außerstreitgesetz (Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p>		<p><b>References to legal sources:</b> Art. 91a Außerstreitgesetz (Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p> <p>Law of 6 August 2013 (Bundesgesetzblatt 2013, Nr. I 179, in force from 1 August 2013).</p>		<p><b>References to legal sources:</b> Art. 91a Außerstreitgesetz (Non-Contentious Jurisdiction Act) as amended by law of 3 August 2009 (Bundesgesetzblatt 2009, Nr. I 75, in force from 1 January 2010).</p> <p>Law of 6 August 2013 (Bundesgesetzblatt 2013, Nr. I 179, in force from 1 August 2013).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
Explanations and nuances:		Explanations and nuances:		Explanations and nuances:	