

Death and legal family formats in the Czech Republic

by Ondrej Plesmid ¹

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

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Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 6 – Death)

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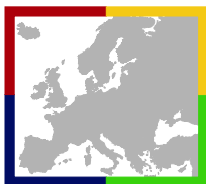
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Disclaimer

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](#) is based on the [LawsAndFamilies questionnaire](#), 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. There the user also has access to the [interactive part of the LawsAndFamilies Database](#), 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](#) 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.

The [Guidance document](#) 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](#).

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 the Czech Republic

The answers concerning the Czech Republic 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):

Formalisation of legal family formats in the Czech Republic by Lucian Luca Otáhal (Section 1)

Income, troubles and legal family formats in the Czech Republic by Ondrej Plesmid (Section 2)

Parenting and legal family formats in the Czech Republic by Lucian Luca Otáhal (Section 3)

Migration and legal family formats in the Czech Republic by Ondrej Plesmid (Section 4)

Splitting up and legal family formats in the Czech Republic by Lucian Luca Otáhal (Section 5)

Death and legal family formats in the Czech Republic by Ondrej Plesmid (Section 6)

So this paper is based on **Section 6 (Death)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 6.1 Tenancy continuation
- 6.2 Property at death
- 6.3 Inheritance
- 6.4 Inheritance tax
- 6.5 Survivor’s pension
- 6.6 Wrongful death
- 6.7 General background regarding death

In the following pages of this paper, first the answer to question 6.7 is presented, followed by the answers to questions 6.1 to 6.6.

6.07 - General background regarding death (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 death, then please do so here.

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Jurisdiction: **Czech Republic**

Source: O. Plesmid, "Death and legal family formats in Czech Republic". 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, [LawsAndFamilies-CZ-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.01 - Tenancy continuation**

When the partner who holds the rental contract dies, does the other partner then have a right to continue to rent the home?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes, but 2014	2015 Yes, but 2014
? 0000			? 2006	? 0000	? 0000
			N/A 0000		
References to legal sources: Art. 2279 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 2279 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 2279 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In case the partner holding the Lease contract dies, a right to continue to rent goes to a member of the tenant's household who lived in the apartment on the date of death of the tenant and who does not have their own apartment. If this person is someone different than the tenant's wife or husband, registered partner, parent, sibling, child or grandchild, a right to continue to rent goes to this person only with the consent of the Landlord. The lease after this transfer will expire in two years from the date when the rent went to the member of the tenant's household. This does not apply if the person to whom the rent went reached the age of seventy years on the date of transfer.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: See under Marriage.</p>	

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Section: **6 - Death**

Question: **6.02 - Property at death**

When one partner dies, do statutory rules consider as joint property any possessions acquired by either of them after they started this type of relationship? (In other words: would the surviving partner be deemed to own 50% of these possessions, while the other 50% are subject to relevant rules of inheritance law?)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 No 0000	2015 No 0000
			N/A 0000		
References to legal sources: Art. 708 and next of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 708 and next of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 708 and next of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: According to Czech civil law only marriage allows community of property for spouses. That means that, with a few exceptions, everything what spouses bring into the marriage and everything they have acquired after they have married belongs to Matrimonial property of spouses (joint property). Spouses own everything jointly. Partners may acquire everything into co-ownership. In this case each person owns only her/his part of property. This is only the case if they agree to do so.</p> <p>Otherwise, each partner acquires property in his/her individual ownership.</p>		<p>Explanations and nuances: In the case of cohabitation or registered partnership this type of joint property does not exist.</p>		<p>Explanations and nuances: In the case of cohabitation or registered partnership this type of joint property does not exist.</p>	

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Section: **6 - Death**

Question: **6.03 - Inheritance**

When one partner dies without testament, is the other partner then an inheritor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2006	2015 Yes, but 2014	2015 Yes, but 2014
			N/A 0000	? 0000	? 0000
References to legal sources: Art. 1635 and 3020 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 1635 and 3020 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).		References to legal sources: Art. 1635 and 3020 of Law No. 89/2012 Coll., Civil Code (in force from 1.1.2014).	
Explanations and nuances: In case one partner dies without testament, the wife/husband, register partner or cohabitant is the obligatory inheritor in the first and second group of inheritors.		Explanations and nuances: According to the Civil Code the articles regulating the rights and obligations of spouses also apply to registered partnership and their rights and obligations.		Explanations and nuances: In the case of cohabitation, the partner who has lived with the partner who died at least for one year before the date of her/his death in common household and who has taken care of this common household or who has been depended on that partner, is an inheritor.	

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Section: **6 - Death**

Question: **6.04 - Inheritance tax**

Is the surviving partner exempted from paying inheritance tax (or required to pay less than a mere friend would have to pay)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes, but 2014	2015 Yes, but 2014
Yes 0000			Yes 2006	Yes, but 1992	Yes, but 1992
			N/A 0000	? 0000	? 0000
References to legal sources: Art. 4a of Law No. 586/1992 Coll., on Income Tax (this part came in force from 1.1.2014).		References to legal sources: Art. 4a of Law No. 586/1992 Coll., on Income Tax (this part came in force from 1.1.2014).		References to legal sources: Art. 4a of Law No. 586/1992 Coll., on Income Tax (this part came in force from 1.1.2014).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: From 1 January 2014 the inheritance tax no longer exists. The property acquired by heritage is subject to income tax, but the inheriting spouse is exempt from this income tax.</p> <p>Before 1 January 2014 the inheritance tax was regulated by Law No. 357/1992 Coll. (It is not in force anymore.) Also according to this Act a partner (marriage, registered partnership and cohabitation) was exempt from this tax.</p>		<p>Explanations and nuances: From 1 January 2014 the inheritance tax no longer exists. The property acquired by heritage is subject to income tax, but the inheriting registered partner is exempt from this income tax.</p> <p>Before 1 January 2014 the inheritance tax was regulated by Law No. 357/1992 Coll. (It is not in force anymore.) Also according to this Act a partner (marriage, registered partnership and cohabitation) was exempt from this tax.</p>		<p>Explanations and nuances: From 1 January 2014 the inheritance tax no longer exists. The property acquired by heritage is subject to income tax, but the inheriting cohabiting partner is exempt from this income tax.</p> <p>Before 1 January 2014 the inheritance tax was regulated by Law No. 357/1992 Coll. (It is not in force anymore.) Also according to this Act a partner (marriage, registered partnership and cohabitation) was exempt from this tax. In the case of cohabitation the partner must have lived with the partner who died at least for one year before the date of her/his death in common household and must have taken care of this common household or been dependent on that partner.</p>	

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Section: **6 - Death**

Question: **6.05 - Survivor's pension**

When one partner dies while being employed, is the surviving partner then normally entitled to a survivor's pension?
 (For example on the basis of statutory law, and/or on the basis of a collective labour agreement or arrangements of the employer.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 No, but 2007	2015 No, but 2007	2015 No, but 2007
			? 2006	? 0000	? 0000
			N/A 0000		

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 49, 50 and 51 of Law No. 155/1995 Coll., on pension insurance (in force from 1.1.1996).</p> <p>Art. 375 and next of Law No. 262/2006 Coll., Labour Code (in force from 1.1.2007).</p> <p>Amendment to the Labour Code - Law 205/2015, effective as of 30.9.2015 - systematic changes of Articles.</p>		<p>References to legal sources: Art. 49, 50 and 51 of Law No. 155/1995 Coll., on pension insurance (in force from 1.1.1996).</p> <p>Art. 375 and next of Law No. 262/2006 Coll., Labour Code (in force from 1.1.2007).</p> <p>Amendment to the Labour Code - Law 205/2015, effective as of 30.9.2015 - systematic changes of Articles.</p>		<p>References to legal sources: Art. 49, 50 and 51 of Law No. 155/1995 Coll., on pension insurance (in force from 1.1.1996).</p> <p>Art. 375 and next of Law No. 262/2006 Coll., Labour Code (in force from 1.1.2007).</p> <p>Amendment to the Labour Code - Law 205/2015, effective as of 30.9.2015 - systematic changes of Articles.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Survivor's pension is only an entitlement of the person who entered into marriage. Persons who live in a registered partnership or cohabitation do not have the right to a survivor's pension. In the case when an employee dies as a result of a job accident or occupational disease, the employer is required to provide reimbursement of reasonable funeral expenses, compensation for material damage and reimbursement for a survivor's dependents. To compensation of maintenance costs are entitled the survivors for whom the employee provided or was obliged to provide. Regarding the definition of the circle of eligible survivors of employees it is important if the employee was maintaining under a legal obligation or voluntarily. Among persons who can receive this compensation belong persons for whom the employee had an obligation under family law, also a partner from registered partnership or cohabitation and her/his children, persons who have lived with the employee in a common household, etc.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: See under Marriage.</p>	

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Section: **6 - Death**

Question: **6.06 - Wrongful death**

In case of wrongful death of one partner, is the other partner then entitled to compensation from the wrongdoer?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2006	2015 Yes 1996	2015 Yes 1996
			N/A 0000	? 0000	? 0000
References to legal sources: Art. 43 of Law No. 141/1961 Coll., Criminal Procedure Code (in force from 1.1.1996).		References to legal sources: Art. 43 of Law No. 141/1961 Coll., Criminal Procedure Code (in force from 1.1.1996).		References to legal sources: Art. 43 of Law No. 141/1961 Coll., Criminal Procedure Code (in force from 1.1.1996).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Persons who have been injured, and/or whose property was damaged or got non-material damage in direct relation with the offence have the status of victim in criminal proceedings. Death of one partner is also considered as non-material damage. In connection with this status, the victim has several procedural rights, including the right of compensation for damage caused by the offender.</p>		<p>Explanations and nuances: Persons who have been injured, and/or whose property was damaged or got non-material damage in direct relation with the offence have the status of victim in criminal proceedings. Death of one partner is also considered as non-material damage. In connection with this status, the victim has several procedural rights, including the right of compensation for damage caused by the offender.</p>		<p>Explanations and nuances: Persons who have been injured, and/or whose property was damaged or got non-material damage in direct relation with the offence have the status of victim in criminal proceedings. Death of one partner is also considered as non-material damage. In connection with this status, the victim has several procedural rights, including the right of compensation for damage caused by the offender.</p>	