

Parenting and legal family formats in Germany

by Nora Markard 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 3 – Parenting)

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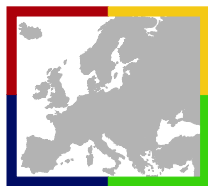


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The six sections of the questionnaire

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. 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.

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 Germany

The answers concerning Germany 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 Germany by Laura Adamietz (Section 1)

Income, troubles and legal family formats in Germany by Laura Adamietz (Section 2)

Parenting and legal family formats in Germany by Nora Markard (Section 3)

Migration and legal family formats in Germany by Nora Markard (Section 4)

Splitting up and legal family formats in Germany by Laura Adamietz (Section 5)

Death and legal family formats in Germany by Laura Adamietz (Section 6)

So this paper is based on **Section 3 (Parenting)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

3.1 Assisted insemination

3.2 IVF

3.3 Surrogacy

3.4 Legal parenthood

3.5 Parental authority

3.6 Parental leave for both parents

3.7 Parental leave for partners

3.8 Grandparents

3.9 Second-parent adoption

3.10 Joint adoption

3.11 Individual adoption

3.12 General background regarding parenting

3.13 Single parenting

3.14 Multiple parenting

In the following pages of this paper, first the answers to questions 3.12, 3.13 and 3.14 are presented, followed by answers to questions 3.1 to 3.11.

3.12 - General background regarding parenting (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 parenting, then please do so here.

–

3.13 - Single parenting (Open question)

If there are any developments in legal policy and case law regarding the possibilities of an individual person without a partner to have a child through adoption, medically assisted insemination, and/or IVF, you could indicate that here.

–

3.14 - Multiple parenting (Open question)

If there are any developments in legal policy or case law regarding possibilities for a child to have more than two parents, you could indicate that here.

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Jurisdiction: **Germany**

Source: N. Markard, "Parenting and legal family formats in Germany". 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-DE-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.01 - Assisted insemination**

Is it legally possible in this type of relationship to become pregnant through medically assisted insemination using sperm of a donor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1970	2015 N/A 0000	2015 N/A 0000	2015 Yes, but 2001	2015 No, but 0000	2015 No, but 0000
Yes, but 0000			N/A 0000		
<p>References to legal sources: 56. Deutscher Juristentag 1986, Beschlüsse III 1.3, 2.3, 7, 9 and 12, K 234-237.</p>		<p>References to legal sources: (Sample) Guidelines on Performing Assisted Reproduction – Amendment 2006 – ((Muster-) Richtlinie zur Durchführung der assistierten Reproduktion – Novelle 2006 –), passed on 17 February 2006 (updated from 1988), Deutsches Ärzteblatt vol. 103, no. 20, 19 May 2006, available at: www.bundesaerztekammer.de/downloads/AssRepro.pdf.</p> <p>Art. 9 and 11(2) of the Embryo Protection Act (Embryonenschutzgesetz, ESchG).</p> <p>For a list of the regional medical associations' regulations, see the German Lesbians and Gays Association's website: https://www.lsvd.de/recht/ratgeber/kuenstliche-befruchtung.html.</p>		<p>References to legal sources: See references under Registered partnership.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Donor insemination was never illegal in Germany, efforts to criminalize it failed in 1962. In 1970, at its 73rd annual meeting, the German Federal Medical Association (Bundesärztekammer) stopped viewing heterologous insemination with donor sperm as professional misconduct. In 1986, the German Legal Association (Deutscher Juristentag) followed suit at its 56th meeting, emphasizing the right to know one's biological descent.</p>		<p>Explanations and nuances: According to art. 9 ESchG, only doctors may perform artificial insemination. Anyone performing it without being a doctor is criminally liable, except the woman and the donor, art. 11(2) ESchG. There is no provision making it illegal for a doctor to perform heterologous insemination on a woman who is in a registered partnership. However, in its 2006 Sample Guidelines, the German Medical Association continues to recommend limiting medically assisted insemination to married couples, where the husband will be the legal father. Statutory insurance bodies also cover 50% of the cost only for married couples. However, only the regional medically associations' guidelines are binding.</p> <p>The Hamburg association has allowed the practice for registered partners. Other associations have no guidelines on the matter, or leave the issue open, thus permitting the practice. The associations of Baden-Württemberg, Bremen, Mecklenburg-Vorpommern, Saarland, Sachsen-Anhalt, Schleswig-Holstein and Thuringia have confirmed that doctors in their region can perform heterologous insemination.</p>		<p>Explanations and nuances: See explanations for married couples and for registered partnerships.</p> <p>The Hamburg medical association limits its permission to married and registered partners. Elsewhere, too, it will be even more difficult for non-married or non-registered couples to procure heterologous insemination.</p>	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.02 - IVF**

Is it legally possible in this type of relationship to become pregnant through in vitro fertilisation (IVF) using donated egg or sperm?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 1991	2015 N/A 0000	2015 N/A 0000	2015 Yes, but 2001	2015 No, but 0000	2015 No, but 0000
Yes 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. 1, 9 and 11 ESchG (see references in question 3.01).</p> <p>Art. 27a Social Security Code (Sozialgesetzbuch) vol. V (SGB V).</p> <p>Arbeitsgruppe "In-vitro-Fertilisation, Genomanalyse und Gentherapie" [Benda-Kommission], in: Bundesminister für Forschung und Technologie (ed.), In-vitro Fertilisation, Genomanalyse und Gentherapie, 1985.</p> <p>Richtlinien zur Durchführung der In-vitro-Fertilisation mit Embryotransfer und des intratubaren Gameten- und Embryotransfers als Behandlungsmethoden der menschlichen Sterilität, Deutsches Ärzteblatt 1988, vol. 85, issue 50: A-3605.</p>		<p>References to legal sources: See references for marriage and question 3.01.</p>		<p>References to legal sources: See references for marriage and question 3.01.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: After the birth of the first IVF baby in Great Britain in 1978, regulation became a topic of discussion in Germany. The Benda commission, named after its chairman Ernst Benda, drew up an influential report (1980–1985), enquête commissions and working groups followed. The 1988 Guidelines on IVF, part of the medical code of conduct, 'generally' limited IVF to married couples using homologous sperm; exceptions were subject to the decision of a commission. The ESchG entered into force in 1991, regulating certain new practices and subjecting some to criminal sanctions. According to the ESchG, egg cell donation is illegal in Germany, unlike sperm donation. In-vitro fertilization and the implantation of the embryo created in vitro can only be performed by doctors. Statutory insurance companies will not cover the procedure if donor sperm is used.</p>		<p>Explanations and nuances: See explanations for marriage and question 3.01.</p>		<p>Explanations and nuances: See explanations for marriage and question 3.01.</p>	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.03 - Surrogacy**

Is it legally possible for both partners in this type of relationship to become the legal parents of a child through the help of a surrogate mother in the country?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 1991	2015 N/A 0000	2015 N/A 0000	2015 No 2001	2015 No 1991	2015 No 1991
No, but 1988			N/A 0000	No, but 0000	No, but 0000
Yes 0000					
References to legal sources: Art. 1 Embryo Protection Act (Embryonenschutzgesetz, ESchG). Richtlinien zur Durchführung der In-vitro-Fertilisation, see references to question 3.01.		References to legal sources: See under Marriage.		References to legal sources: See under Marriage.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Before the 1991 ESchG, surrogacy was unregulated. The 1988 Guidelines on IVF, which were made part of the professional code of conduct (Berufsordnung), rejected surrogacy.</p>		<p>Explanations and nuances: See under Marriage.</p>		<p>Explanations and nuances: See under Marriage; in practice, where it was performed at all before 1991, surrogacy would have probably been limited to married couples.</p>	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.04 - Legal parenthood**

When one partner gives birth, will (or can) the other partner then also become legal parent of the child, without having to go through adoption?
 (For example automatically, or by way of recognition/acknowledgement.)

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 0000	2015 Yes 1970	2015 No 0000
				No 0000	
References to legal sources: Art. 1592 no. 1 Civil Code (Bürgerliches Gesetzbuch, BGB).		References to legal sources: Art. 1591 and 1592 Civil Code.		References to legal sources: Art. 1592, 1594 and following, Civil Code.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The man married to the mother is automatically the father of the child.</p>		<p>Explanations and nuances: The German Civil Code only recognizes a female birth mother and a male father as possible automatic parents; only a man can recognize a child and thus become a legal parent.</p>		<p>Explanations and nuances: A man's recognition of a child requires the consent of the mother. It can be given before birth. It is excluded if there is another legal father; in that case, the man has to sue.</p> <p>Fathers who were not married to the child's mother were not considered to be legally related to the child until the Illegitimate Children Act (Nichtehelichengesetz) came into force in 1970.</p>	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.05 - Parental authority**

Is joint parental authority/responsibility possible for the couple, while only one of the partners is the legal parent of the child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 2001	2015 N/A 0000	2015 N/A 0000	2015 No, but 2001	2015 No, but 0000	2015 No, but 0000
No 0000			N/A 0000		
References to legal sources: Art. 1626 and 1687b of the Civil Code (Bürgerliches Gesetzbuch, BGB).		References to legal sources: Art. 9(1) and (2) of the Life Partnership Act (Lebenspartnerschaftsgesetz, LPartG). Federal Constitutional Court, judgment of 9 April 2002, BVerfGE 105, 313.		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Joint custody can only be held by the legal parents of the child; their parental position must be established (art. 1591 BGB for the mother: the woman who gave birth to the child; art. 1592ff BGB for the father: the husband or the man who acknowledged the child). However, the spouse of a legal parent with sole custody, has 'small custody' (art. 1687b BGB). S/he has the power to make joint decisions in matters of the everyday life of the child. In cases of exigency, the non-custodial spouse can also act alone to preserve the child's best interests.</p> <p>Until 2001, the spouse of the legal parent only had the right to have contact with the step-child (Art. 1685 BGB). Art. 1687b BGB was introduced with the Life Partnership Act, which thus not only legalized same-sex step-parenthood but also enlarged the legal possibilities for marriage based step-families.</p>		<p>Explanations and nuances: See marriage column for explanations.</p> <p>Legal parenthood of both same-sex partners usually requires step-child adoption, unless a recognition of both as legal parents abroad is recognized in Germany. However, as with married couples, the life partner of a parent with sole custody can make co-decisions in matters of everyday life and act alone in exigent circumstances (art. 9(1) and (2) LPartG). This provision was confirmed as constitutional by the Federal Constitutional Court in 2002.</p>		<p>Explanations and nuances: See marriage column for explanations: joint custody requires that both partners are legal parents. However, custodial rights and responsibilities can be transferred to third parties, such as boarding schools. The same is also possible for a cohabiting partner, if the parent has sole custody. Such agreements may be cancelled at any time and thus provide no security for the partner.</p>	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.06 - Parental leave for both parents**

When both partners are the legal parents of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1985	2015 N/A 0000	2015 N/A 0000	2015 Yes 2004	2015 Yes 1985	2015 No 0000
No 0000			No 2001	No 0000	
			N/A 0000		
References to legal sources: Art. 1 and 15 of the Act on Parental Pay and Parental Leave (Gesetz zum Elterngeld und zur Elternzeit – Bundeselterngeld - und Elternzeitgesetz, BEEG).		References to legal sources: See marriage column for references.		References to legal sources: See marriage column for references.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Both spouses have the statutory right to parental leave, art. 15(1) BEEG, if they live in the same household as the child and take care of the child. Maternity leave was introduced in 1980, parental leave for both parents in 1985.</p>		<p>Explanations and nuances: As for marriage; until 2004, a same-sex registered partner could not adopt his or her partner's child as a second parent, so that partner could also not obtain parental leave.</p>		<p>Explanations and nuances: Same-sex cohabiting partners: It will rarely be the case that cohabiting partners of the same sex will be able to both be legal parents of the child, as there is no possibility to declare parenthood or to adopt the child as a step-child. One such possibility is the recognition of co-parenthood established abroad, e.g., following surrogacy.</p>	

Jurisdiction: **Germany**

Source: N. Markard, "Parenting and legal family formats in Germany". 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-DE-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.07 - Parental leave for partners**

When only one partner is the legal parent of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1985	2015 N/A 0000	2015 N/A 0000	2015 Yes 2001	2015 No 0000	2015 No 0000
No 0000			N/A 0000		
References to legal sources: See references to question 3.06.		References to legal sources: See references to question 3.06.		References to legal sources:	
Explanations and nuances: The parental leave requires the consent of the parent with custody.		Explanations and nuances: See marriage column for explanations.		Explanations and nuances:	

Jurisdiction: **Germany**

Source: N. Markard, "Parenting and legal family formats in Germany". 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-DE-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.08 - Grandparents**

Do grandparents have a statutory right to visit the children in this type of relationship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1998	2015 N/A 0000	2015 N/A 0000	2015 Yes 2001	2015 Yes 1998	2015 Yes, but 1998
No, but 0000			N/A 0000	No, but 0000	No, but 0000
<p>References to legal sources: Since 1998: art. 1685(1) and (2) of the Civil Code (Bürgerliches Gesetzbuch, BGB), in force since 1998.</p> <p>Before 1998: art. 1666 Civil Code.</p>		<p>References to legal sources: Since 1998: art. 1685(1) and 1589 Civil Code.</p> <p>Before 1998: art. 1666 Civil Code.</p>		<p>References to legal sources: Since 1998: art. 1685(1) Civil Code.</p> <p>Before 1998: art. 1666 Civil Code.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Yes, if the grand-parents are biologically related to the child (art. 1685(1) BGB) or if they have a socio-familiar relationship with the child that included taking responsibility for the child (art. 1685(2) BGB: assuming the parties shared a household); also, the visitation rights must serve the child's well-being.</p> <p>Adoption is on par with biological kinship, such that art. 1685(1) BGB also applies to step-grandparents after the unrelated spouse adopted the child.</p> <p>Before 1998, grandparents had to rely on art. 1666 BGB, which allows for the court to intervene (only) if the well-being of the child is in danger.</p>		<p>Explanations and nuances: See marriage column for explanations.</p> <p>If the life partner has adopted the child as a step-parent, the grandparents on that side are covered by art. 1685(1) BGB. Until then, they have to rely on art. 1685(2), together with other categories of relatives and persons close to the child.</p>		<p>Explanations and nuances: See marriage column for explanations.</p> <p>Step-child adoption is not possible for a same-sex partner who is not the life partner of the legal parent, such that grandparents on that side can only rely on 1685(2) BGB.</p>	

Jurisdiction: **Germany**

Source: N. Markard, "Parenting and legal family formats in Germany". 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-DE-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.09 - Second-parent adoption**

When only one partner is the legal parent of a child, does the other partner then have the possibility of becoming the child's second parent by way of adoption?

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 2004	2015 No 0000	2015 No 0000
			No 2001		
			N/A 0000		
References to legal sources: Art. 1741(2) Civil Code (Bürgerliches Gesetzbuch, BGB).		References to legal sources: Art. 9(7) of the Life Partnership Act (Lebenspartnerschaftsgesetz, LPartG), introduced in 2004.		References to legal sources: See marriage and registered partnership columns for references.	

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: A person who is not married can only adopt individually. Step-child adoption is only possible within a marriage or (since 2004) a registered partnership, i.e., it requires formalizing the partnership first.	

Jurisdiction: **Germany**

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Section: **3 - Parenting**

Question: **3.10 - Joint adoption**

Can partners jointly adopt a child?

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 2013	2015 No 0000	2015 No 0000
			No 2001		
			N/A 0000		
<p>References to legal sources: Art. 1741(2) Civil Code (Bürgerliches Gesetzbuch, BGB).</p>		<p>References to legal sources: See Marriage column for references. Federal Constitutional Court (Bundesverfassungsgericht, BVerfG), judgment of 19 February 2013 – 1 BvL 1/11, 1 BvR 3247/09 (successive adoption).</p>		<p>References to legal sources: See Marriage column for references.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Only married couples can adopt jointly.</p>		<p>Explanations and nuances: Registered partners can only adopt individually, but in 2013, the Federal Constitutional Court permitted successive adoption (adopting the partner's adopted child). This can even be performed in the same session, providing for a workaround.</p>		<p>Explanations and nuances: See Marriage column for references.</p>	

Jurisdiction: **Germany**

Source: **N. Markard, "Parenting and legal family formats in Germany". 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-DE-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.11 - Individual adoption**

Can one partner in this type of relationship individually adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2001	2015 Yes 0000	2015 Yes 1995
			N/A 0000		? 0000
References to legal sources: Art. 1741(2) Civil Code (Bürgerliches Gesetzbuch, BGB).		References to legal sources: Art. 1741 Civil Code (Bürgerliches Gesetzbuch, BGB).		References to legal sources: See registered partnership column for references.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Married couples can only adopt jointly, unless one spouse is adopting the other spouse's child as a step-parent.</p>		<p>Explanations and nuances: The controlling criterion is the best interests of the child; a parent-child relationship must be expected to develop.</p>		<p>Explanations and nuances: See registered partnership column for explanations. Considering the adoptive parent's sexual orientation negatively when deciding whether the adoption benefits the child's well-being would today constitute discrimination. However, certain sexual relations between men were criminalized until 1995; it is therefore likely that, in practice, homosexual individuals were not able to adopt.</p>	