

Migration and legal family formats in Malta

by Christian Attard ¹

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

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

Published by INED, Paris, 2017, www.LawsAndFamilies.eu

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

© 2017 Christian Attard

¹ Christian Attard, LLD, is grateful for the useful comments that Dr. M. Clara Galea Borg (Partner, EMD Advocates) made on an earlier version of the answers in this section of the database.

² [Grotius Centre for International Legal Studies](#), Leiden University, Netherlands, www.leiden.edu.



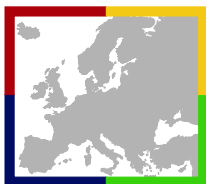
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



Recommended citation:
C. Attard, 'Migration and legal family formats in Malta', 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 (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.



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](#) 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 Malta

The answers concerning Malta 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 Malta by Christian Attard (Section 1)

Income, troubles and legal family formats in Malta by Clara Galea Borg (Section 2)

Parenting and legal family formats in Malta by Christian Attard (Section 3)

Migration and legal family formats in Malta by Christian Attard (Section 4)

Splitting up and legal family formats in Malta by Clara Galea Borg (Section 5)

Death and legal family formats in Malta by Clara Galea Borg (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: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 1970	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 No 0000	2015 No 0000
?		N/A 0000	N/A 0000		
References to legal sources: Article 4(1)(g) and Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta) enacted on 21 September 1970.		References to legal sources: Article 4(1)(g) and 5 of the Immigration Act, applicable to civil unions by virtue of Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).		References to legal sources: Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta) enacted on 21 September 1970.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Spouses are exempted from obtaining (from the Principal Immigration Officer) leave to enter and remain.</p>		<p>Explanations and nuances: Civil unions have the same effects and consequences at law as marriage.</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 1970	2015 Yes, but 2014	2015 Yes, but 2014	2015 Yes, but 2014	X	X
? 0000	No 2001	No 1998	No 1989	X	X
	N/A 0000	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>References to legal sources: Article 4(1)(g) and Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta) enacted on 21 September 1970.</p> <p>Article 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975.</p> <p>Article 6(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p>		<p>References to legal sources: Article 4(1)(g) and Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta) enacted on 21 September 1970, applicable to civil unions by virtue of Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p> <p>Article 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975, applicable to civil unions by virtue of Article 4(2)(a) of the Civil Unions Act.</p> <p>Article 6(2) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: See explanation under question 4.1.</p> <p>The place where the marriage was celebrated is irrelevant for immigration purposes if that marriage is recognised as valid for the purposes of Maltese law. This is the case, pursuant to Article 18 of the Marriage Act, if (i) the formalities required for the validity of the marriage in the country where it was celebrated have been observed and (ii) as regards the capacity of the parties, each of the spouses was capable of contracting marriage according to the law of their respective domicile.</p> <p>The Civil Unions Act has since 2014 provided that same-sex marriages celebrated abroad are to be recognised as marriages for the purposes of Maltese law and states that Article 18 of the Marriage Act shall apply to such marriages. However, the Maltese authorities do not verify whether this is the case as part of the formalities preceding marriage, but this has not yet been tested in court.</p> <p>Prior to 2014, a public policy exception would have been invoked to refuse the recognition of same-sex marriages celebrated abroad for all purposes at law. This was the declared position of the Maltese authorities, although no case law exists on the matter.</p>		<p>Explanations and nuances: See marriage.</p> <p>Civil unions have the same effects and consequences at law as marriage.</p> <p>The same conditions for the recognition of marriages celebrated abroad apply to civil unions celebrated abroad. However, even in this case the Maltese authorities do not verify whether each of the partners was capable of contracting the civil union according to the law of their respective domicile. The matter has never been tested in court.</p> <p>Prior to 2014, a public policy exception would have been invoked to refuse the recognition of registered partnerships celebrated abroad for all purposes at law. This was the declared position of the Maltese authorities, although no case law exists on the matter.</p>			

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes, but 2007	2015 N/A 0000	2015 Yes, but 2014	2015 Yes, but 2014	2015 No 0000	2015 No 0000
? 0000		N/A 0000	N/A 0000		
<p>References to legal sources: Articles 3, 4(1), 5 and 13 of the Family Reunification Regulations (Legal Notice 150 of 2007), published on 5 June 2007.</p>		<p>References to legal sources: Articles 3, 4(1), 5 and 13 of the Family Reunification Regulations (Legal Notice 150 of 2007), published on 5 June 2007, applicable to civil unions by virtue of Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p>		<p>References to legal sources: Article 5 of the Immigration Act (Chapter 217 of the Laws of Malta) enacted on 21 September 1970.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A legally resident third country national can apply to have their spouse join them if they have a valid residence permit of at least one year and reasonable prospects of obtaining the right to permanent residence.</p> <p>They do not enjoy this right if they have applied for refugee status and a decision has not yet been issued in that respect or if they are authorised to reside on the basis of temporary or subsidiary protection or are awaiting a decision in that respect.</p> <p>The spouse must be at least 21 years of age.</p> <p>The sponsor must have resided legally in Malta for at least 12 months prior to submitting their application.</p> <p>The spouse will only be allowed to join the sponsor when the latter has stayed lawfully in Malta for a period of two years.</p>		<p>Explanations and nuances: Civil unions have the same effects and consequences at law as marriage.</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 2007	2015 Yes, but 2014	2015 Yes, but 2014	2015 Yes, but 2014	2015 Yes, but 2007	2015 Yes, but 2007
? 0000	No 2001	Yes, but 2007	Yes, but 2007	No 0000	No 0000
	N/A 0000	No 1998	No 1989		
		N/A 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: Article 3(1) of the Free Movement of European Union Nationals and their Family Members Order (Legal Notice 191 of 2007).</p> <p>Article 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975.</p> <p>Article 6(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p>		<p>References to legal sources: Article 3(1) of the Free Movement of European Union Nationals and their Family Members Order (Legal Notice 191 of 2007), applicable to civil unions by virtue of Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta).</p> <p>Article 6(2) of the Civil Unions Act (Chapter 530 of the Laws of Malta, enacted on 14th April 2014, entered into force on 17 April 2014).</p>		<p>References to legal sources: Article 3(1) and (5) of the Free Movement of European Union Nationals and their Family Members Order (Legal Notice 191 of 2007).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The place where the marriage was celebrated is irrelevant for immigration purposes if that marriage is recognised as valid for the purposes of Maltese law. This is the case, pursuant to Article 18 of the Marriage Act, if (i) the formalities required for the validity of the marriage in the country where it was celebrated have been observed and (ii) as regards the capacity of the parties, each of the spouses was capable of contracting marriage according to the law of their respective domicile.</p> <p>The Civil Unions Act has since 2014 provided that same-sex marriages celebrated abroad are to be recognised as marriages for the purposes of Maltese law and states that Article 18 of the Marriage Act shall apply to such marriages.</p> <p>However, the Maltese authorities do not verify whether both parties had capacity to contract the marriage according to the law of their respective domicile. This practice has not yet been challenged or tested in court.</p> <p>Prior to 2014, a public policy exception would have been invoked to refuse the recognition of same-sex marriages celebrated abroad. This was the declared position of the Maltese authorities, although no case law exists on the matter.</p>		<p>Explanations and nuances: Civil unions have the same effects and consequences at law as marriage.</p> <p>The same conditions for the recognition of marriages celebrated abroad apply to civil unions celebrated abroad. However, even in this case the Maltese authorities do not verify whether each of the partners was capable of contracting the civil union according to the law of their respective domicile. The matter has never been tested in court.</p> <p>Prior to 2014, a public policy exception would have been invoked to refuse the recognition of registered partnerships celebrated abroad. However, registered couples would have been treated, in the period between 2007 and 2014, as cohabiting couples (see explanation under cohabitation). Prior to 2007, no recognition at all would have been possible. This was the declared position of the Maltese authorities, although no case law exists on the matter.</p>		<p>Explanations and nuances: The right to reside in Malta is also granted to the partner with whom the EU citizen has a durable relationship. "Due and proper consideration" must be given to the admission and residence of partners, when the relationship is "duly attested", by undertaking an extensive investigation of the personal circumstances. Any denial of residence must be justified. There is therefore an element of discretion on the part of the authorities in making the relevant assessment.</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 0000	2015 Yes, but 2014	2015 Yes, but 2014	2015 Yes, but 2014	X	X
	No 2001	No 1998	No 1989	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
<p>References to legal sources: Articles 6 and 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975.</p> <p>Articles 4(1), 6 and 10 of the Civil Unions Act (Chapter 530 of the Laws of Malta), enacted on 14 April 2014.</p> <p>Legal Notice 209 of 2014, Unions of Equivalent Status to Civil Unions Regulations, published on 20 June 2014.</p>		<p>References to legal sources: Articles 6 and 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975, applicable to civil unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chapter 530 of the Laws of Malta).</p> <p>Article 6, 7 and 10 of the Civil Unions Act (Chapter 530 of the Laws of Malta), enacted on 14 April 2014.</p> <p>Legal Notice 209 of 2014, Unions of Equivalent Status to Civil Unions Regulations, published on 20 June 2014.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A marriage contracted between persons either of whom is bound by a previous (valid) marriage is void. The same applies to persons bound by a previous union which is recognised as having equivalent status to a Maltese-registered civil union. This is the case if it has been designated as such in regulations issued by the competent Minister.</p> <p>A marriage or registered partnership entered into abroad are recognised as valid for the purposes of Maltese law. This is the case if (i) the formalities required for the validity of the marriage in the country where it was celebrated have been observed and (ii) as regards the capacity of the parties, each of the spouses was capable of contracting marriage according to the law of their respective domicile. The Public Registrar does not undertake an examination of whether these two conditions are satisfied when registering marriages or civil unions contracted abroad; the invalidity of the marriage or civil union could however be pleaded in court in the course of litigation.</p> <p>A same-sex marriage celebrated abroad is recognised as a marriage under Maltese law, pursuant to Article 6(1) of the Civil Unions Act, if the two conditions above are satisfied. Such a marriage would therefore invalidate any subsequent marriage contracted during its validity. No public policy exception could be invoked to oppose the recognition of the existing marriage.</p> <p>In case a couple wanted to get married in Malta, and one or both of the parties are not Maltese citizens, each or both of the parties would have to present a recent free status certificate. Such a document should not be obtainable from the foreign country if the respective party was still bound by a previous marriage or registered partnership, whether with a person of the same or different sex. Therefore the Registrar would refuse to issue the banns and the applicants would have to challenge that decision in court, during which they could plead the invalidity of the previous marriage or registered partnership. If successful, the Registrar could be ordered by the Court to issue the banns.</p> <p>Prior to 2014, a public policy exception could have been invoked in court or by the Public Registrar to oppose the recognition of a same-sex marriage or different-sex or same-sex registered partnership. Therefore the parties would have in theory been allowed to marry. However, the parties would have had difficulty obtaining the free status certificate which is required as part of the formalities preceding marriage. It is unclear how such a situation would have been resolved.</p>		<p>Explanations and nuances: See explanation under Marriage. Civil unions have the same effects and consequences at law as marriage.</p> <p>A "union of equivalent status" entered into abroad is recognised as a civil union in Malta if the same two conditions are satisfied which apply to the recognition in Malta of marriages celebrated outside Malta.</p>			

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 0000	2015 Yes, but 2014	2015 Yes, but 2014	2015 Yes, but 2014	X	X
	No 2001	No 1998	No 1989	X	X
	N/A 0000	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>References to legal sources: Article 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975.</p>		<p>References to legal sources: Article 18 of the Marriage Act (Chapter 255 of the Laws of Malta) enacted on 12 August 1975, applicable to civil unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chapter 530 of the Laws of Malta).</p> <p>Articles 6(2) and 10 of the Civil Unions Act (Chapter 530 of the Laws of Malta), enacted on 14 April 2014.</p> <p>Legal Notice 209 of 2014, Unions of Equivalent Status to Civil Unions Regulations, published on 20 June 2014.</p>			
<p>Explanations and nuances: See explanation under question 4.06.</p> <p>The rules on intestate succession would therefore apply as if the marriage had been contracted in Malta, unless the validity of the marriage is successfully challenged throughout the course of proceedings relating to the succession.</p>		<p>Explanations and nuances: See explanation under Marriage and under question 4.06.</p> <p>Civil unions have the same effects and consequences at law as marriage.</p>			

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes, but 0000	2015 N/A 0000	2015 Yes, but 2014	2015 Yes, but 2014	2015 No 0000	2015 No 0000
		N/A 0000	N/A 0000		
<p>References to legal sources: Article 6 of the Maltese Citizenship Act (Chap. 188 of the Laws of Malta) enacted on 21 September 1964, as amended by Act IV of 2000.</p>		<p>References to legal sources: Article 6 of the Maltese Citizenship Act (Chap. 188 of the Laws of Malta) enacted on 21 September 1964. Applicable to civil unions by virtue of Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta).</p>		<p>References to legal sources: None.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: On the date of application, the applicant must have been married to the Maltese citizen and living with him or her for at least five years, or if on the date of application he or she is de facto or de jure separated from the Maltese citizen, he or she must have lived with the Maltese citizen for a period of at least five years after the celebration of the marriage.</p>		<p>Explanations and nuances: Civil unions have the same effects and consequences at law as marriage.</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 ? 0000	2015 ? 2014
		N/A 0000	N/A 0000		No 0000
References to legal sources: No specific provision.		References to legal sources: Article 4(1) of the Civil Unions Act (Chapter 530 of the Laws of Malta).		References to legal sources: No specific provision.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Maltese law regulates local adoptions in the Civil Code (Chap. 16 of the Laws of Malta) and inter-country adoptions in the Adoption Administration Act (Chap. 495 of the Laws of Malta). There is no specific provision for the registration and/or recognition of foreign adoptions.</p> <p>Articles 826 and 827 of the Code of Organisation and Civil Procedure (Chap. 12 of the Laws of Malta) lay down the conditions for the enforcement, upon application, of judgements of courts and tribunals outside Malta.</p> <p>With regard to Intercountry Adoptions one notes Art 23(1) of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption which states that 'An Adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognised by operation of law in the other Contracting States.'</p> <p>Malta acceded to the Convention in 2004 and the Convention entered into force in February 2005.</p> <p>However, it would seem that this Article only applies to Intercountry Adoptions. Therefore, with regard to adoptions/second parent adoptions decreed abroad, the general rule regarding the recognition and enforcement of judgement would apply with regard to all other adoptions.</p> <p>The responsible authorities claim that to their knowledge, in practice, no further formality is required in Malta if the adoption was concluded in accordance with the rules of the residence country.</p> <p>Prior to 2014 and the enactment of the Civil Unions Act however, it is doubtful whether adoptions by same-sex couples (irrespective of the legal status of their relationship) would have been recognised or whether they would have been deemed as contrary to Maltese public order.</p>		<p>Explanations and nuances: Civil unions have the same effects and consequences at law as marriage.</p>		<p>Explanations and nuances: The author has no knowledge of any cases in which unmarried couples, whether of the same or different sex, either applied for the recognition of an adoption decree obtained abroad, or were challenged in the exercise of their parental rights by the Maltese authorities.</p> <p>Prior to 2014 however, a public policy exception could have been invoked to oppose a situation whereby a child would have had two parents of the same sex. No cases are known however.</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Migration and legal family formats in Malta". 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-MT-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
2015 ? 0000	2015 N/A 0000	2015 ? 2014	2015 ? 2014	2015 ? 0000	2015 ? 2014
		N/A 0000	N/A 0000		No 0000
References to legal sources: No specific provision.		References to legal sources: No specific provision.		References to legal sources: No specific provision.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: See explanation under question 4.08.</p> <p>Although second-parent adoptions are decreed locally by Maltese courts, the legal basis on which this is done is unclear (see answer to question 3.9). Therefore there should be no legal impediment for second-parent adoptions decreed outside of Malta to be recognised in Malta. However, due to the unclear legal basis, it is difficult to determine the exact point in time since when this became possible.</p>		<p>Explanations and nuances: See explanation under Marriage and under question 4.08.</p>		<p>Explanations and nuances: See explanation under Marriage and under question 4.08.</p>	