

## Formalisation of legal family formats in Poland

by Krzysztof Smiszek<sup>1</sup>

*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 1 – Formalisation)

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



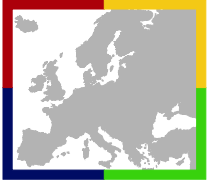
<sup>3</sup> Institut national d'études démographiques, Paris, France, [www.ined.fr](http://www.ined.fr).



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# 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](http://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](http://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 Poland

The answers concerning Poland 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 Poland by Krzysztof Smiszek (Section 1)

### Income, troubles and legal family formats in Poland by Dorota Pudzianowska (Section 2)

### Parenting and legal family formats in Poland by Dorota Pudzianowska (Section 3)

### Migration and legal family formats in Poland by Dorota Pudzianowska (Section 4)

### Splitting up and legal family formats in Poland by Krzysztof Smiszek (Section 5)

### Death and legal family formats in Poland by Krzysztof Smiszek (Section 6)

So this paper is based on **Section 1 (Formalisation)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 1.1 Legal family formats
- 1.2 Two siblings
- 1.3 With resident foreigner
- 1.4 With non-resident foreigner
- 1.5 Two foreigners
- 1.6 Two resident foreigners
- 1.7 Two non-resident foreigners
- 1.8 Start at registry
- 1.9 Start at public authority
- 1.10 Start at religious building
- 1.11 Contract
- 1.12 Statutory contract
- 1.13 Surname
- 1.14 Living together
- 1.15 Sex
- 1.16 General background regarding formalisation
- 1.17 Literature

In the following pages of this paper, first the answers to questions 1.16 and 1.17 are presented, followed by the answers to questions 1.1 to 1.15.

**1.16 - General background regarding formalisation (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, constitutional, legal-cultural, religious, etc.) that may be relevant for the understanding of your answers above regarding formalisation, then please do so here.

**1.17 - Literature (Open question)**

Please list some relevant literature about the family formats concerned, especially in English and/or online (with web links).

The issue of formalisation of same-sex relations is one of the most controversial from the political point of view. The draft laws on registered partnership consequently presented to the Polish Parliament (and consequently rejected) included different solutions in this field - ranging from official registration at the Civil Status Office to a civil contract concluded before the notary. The issue of formalisation is used by the political opponents to argue that registered partnership constitutes de facto marriage and therefore is not in line with The Constitution of the Republic of Poland which defines marriage as a union between one man and one woman (art. 18).

Mizielinska, J. & Staińska, A (2014) "Personal strategies for overcoming legal obstacles. Families of choice in Poland (2013-2015)" In C. Casonato, C. & Schuster, A. (Eds) (2014) "Rights on the move: Rainbow families in Europe: proceedings of the conference: Trento, 16-17 October 2014." Trento: Universita Degli Studi di Trento. Facolta di Giurisprudenza. [https://www.academia.edu/11861339/Rights\\_on\\_the\\_move\\_rainbow\\_families\\_in\\_Europe\\_proceedings\\_of\\_the\\_conference\\_Trento\\_16-17\\_October\\_2014](https://www.academia.edu/11861339/Rights_on_the_move_rainbow_families_in_Europe_proceedings_of_the_conference_Trento_16-17_October_2014).

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.01 - Legal family formats**

Which of the three legal family formats mentioned here are available to different-sex and/or same-sex couples?

(For the distinction between registered partnership and cohabitation, see section e of the [Guidance for experts answering questions in the questionnaire](#). If there are two or more formats available for informally cohabiting couples, then please mention these formats separately in the explanation to this question.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 No 0000	2015 No 0000	2015 No 0000	2015 Yes 1997	2015 Yes 2012
				? 0000	Yes, but 2008
					Doubt 1997
					? 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. 1 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 1 of the law of 25 February 1964: Family and Guardianship Code).</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b>                      Art. 115(11) kodeks karny (Penal Code).</p> <p>The resolution of the Supreme Court from 28 November 2012 (III CZP 65/12) on the interpretation of the term "a person who has lived actually in cohabitation with the tenant".</p>	
<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      No specific law on cohabitation, only few provisions in different legal acts or Supreme Court rulings that recognise relations between unmarried partners and provide specific rights and obligations. For example, art. 115(11) kodeku karnego (Penal Code) includes definition of "the closest person" which covers also relations which are not formalised. The status of "the closest person" gives the right of refusal to testify against the partner. The term "partner" is not specified whether he/she has to be of different sex. The Supreme Court resolution was issued with regard to the case of a gay man who was a partner of a deceased person - main tenant of the apartment. The Court interpreted the law in a way that recognised the surviving partner as authorised to take over the right to tenancy.</p> <p>See also questions 2.6 (next of kin), 2.7 (domestic violence), 2.8 (criminal procedure) and 6.1 (rent law).</p>	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.02 - Two siblings**

Is starting this type of relationship legally possible for two siblings?

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 N/A 0000	2015 No 0000	2015 No 0000
<b>References to legal sources:</b> Art. 14(1) Kodeks rodzinny i opiekuńczy (Art. 14(1) of The Family and Guardianship Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.03 - With resident foreigner**

Is starting this type of relationship legally possible for a national citizen and a foreigner both residing in the country?  
(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 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	X	X
<b>References to legal sources:</b> Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Law of 25 February 1964: Family and Guardianship Code).  Ustawa z dnia 28 listopada 2014 r. (Law of 28 November 2014 on acts of civil status).		<b>References to legal sources:</b>			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			



Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.04 - With non-resident foreigner**

Is starting this type of relationship legally possible for a national citizen residing in the country and a foreigner residing abroad?

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 N/A 0000	X	X
Yes 1964				X	X
<b>References to legal sources:</b> Art. 1 Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 1 of the law of 25 February 1964: Family and Guardianship Code).  Ustawa z dnia 28 listopada 2014 r. (Law of 28 November 2014 on acts of civil status).		<b>References to legal sources:</b>			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.05 - Two foreigners**

Is starting this type of relationship legally possible for two foreigners, only one of whom is residing in the country?

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 N/A 0000	X	X
Yes 1964				X	X
<b>References to legal sources:</b> Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Law of 25 February 1964: Family and Guardianship Code).  Ustawa z dnia 28 listopada 2014 r. (Law of 28 November 2014 on acts of civil status).		<b>References to legal sources:</b>			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			

Jurisdiction: **Poland**

Source: **K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.06 - Two resident foreigners**

Is starting this type of relationship legally possible for two foreigners residing in the country?

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 N/A 0000	X	X
Yes 1964				X	X
<b>References to legal sources:</b> Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Law of 25 February 1964: Family and Guardianship Code).  Ustawa z dnia 28 listopada 2014 r. (Law of 28 November 2014 on acts of civil status).		<b>References to legal sources:</b>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<b>Explanations and nuances:</b> The Civil Registrar is not competent to verify the resident status and all foreigners enjoy the right to marry after fulfilling legal conditions according to the Polish law.		<b>Explanations and nuances:</b>			

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.07 - Two non-resident foreigners**

Is starting this type of relationship legally possible for two foreigners residing abroad?

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 N/A 0000	X	X
Yes 0000				X	X
<b>References to legal sources:</b> Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Law of 25 February 1964: Family and Guardianship Code).  Ustawa z dnia 28 listopada 2014 r. (Law of 28 November 2014 on acts of civil status).		<b>References to legal sources:</b>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      The Civil Registrar is not competent to verify the resident status and all foreigners enjoy the right to marry after fulfilling legal conditions according to the Polish law.</p>		<p><b>Explanations and nuances:</b></p>			

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.08 - Start at registry**

Can you legally start this type of relationship at the registry of births, marriages and deaths (État civil, Standesamt)?

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 N/A 0000	X	X
Yes 0000				X	X
<b>References to legal sources:</b> Art. 1 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 1 of the Law of 25 February 1964: Family and Guardianship Code).		<b>References to legal sources:</b>			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.09 - Start at public authority**

Can you legally start this type of relationship at another public authority (e.g. notary public, local population administration, court)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	X	X
No 0000				X	X
<b>References to legal sources:</b> Art. 1 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 1 of the law of 25 February 1964: Family and Guardianship Code).		<b>References to legal sources:</b>			
<b>Explanations and nuances:</b> It is allowed to start the marriage before the Polish consul abroad or the person who is authorised to act as a consul.		<b>Explanations and nuances:</b>			



Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.10 - Start at religious building**

Can you legally start this type of relationship at a church, synagogue, mosque or other religious building?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 1998	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	X	X
No 0000				X	X
<p><b>References to legal sources:</b> Art. 1(2) ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 1(2) of the law of 25 February 1964: Family and Guardianship Code).</p> <p>Art. 10 Konkordatu między Stolicą Apostolską i Rzeczpospolitą Polską, podpisanego w Warszawie dnia 28 lipca 1993 r. (Art. 10 of The Concordat between the Holy See and the Republic of Poland, signed in Warsaw on 28 July 1993).</p>		<p><b>References to legal sources:</b></p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            Starting the marriage at a church is possible only with regard to the marriages regulated by internal law of the Catholic Church since ratification of the Concordat between Poland and The Holy See in 1998.</p>		<p><b>Explanations and nuances:</b></p>			

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.11 - Contract**

Can the partners make a contract (with or without third-party effect) to organise their relationship, for example with regard to property or personal obligations? (Think of prenuptial contracts and cohabitation contracts.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Doubt 0000	2015 Doubt 0000
<p><b>References to legal sources:</b> Art. 47-51 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 47-51 of the law of 25 February 1964: Family and Guardianship Code).</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b></p>	
<p><b>Explanations and nuances:</b> According Polish law it is possible to make marital property contracts only after entering into marriage. This means that before starting the marriage it is not possible to regulate the property issues or other personal obligations in a contractual way.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b> The Polish legal system does not recognise any type of prenuptial or cohabitation contracts that would be available for unmarried couples. However, these kind of couples have access to the possibilities provided for by the general provisions of The Civil Code (wills, contracts, power of attorney, etc.). This however does not mean that the contractual parties are treated as a formalised relationship.</p>	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.12 - Statutory contract**

Are there specific statutory rules regarding such a contract?

(See question 1.11 about the possibility for the partners to make a contract to organise their relationship.)

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 N/A 0000	2015 No 0000	2015 No 0000
Yes 0000					
<b>References to legal sources:</b> Art. 47 - 51 Ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 47-51 of the law of 25 February 1964: Family and Guardianship Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> According Polish law it is possible to make marital contracts only after entering into marriage. This means that before starting the marriage it is not possible to regulate the property issues or other personal obligations in a contractual way.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.13 - Surname**

Can (or must) one partner use or have the surname of the other partner?

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 N/A 0000	2015 No, but 2014	2015 No, but 2014
Yes 1964				? 0000	? 0000
<b>References to legal sources:</b> Art. 25 ustawy z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 25 of the law of 25 February 1964: Family and Guardianship Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 4.1 ustawa z dnia 17 października 2008 r. o zmianie imienia i nazwiska (art. 4.1 of the law of 17 October 2008 on change of names and surnames).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      The spouses decide about their surnames they will carry after marriage. The spouses may carry a common name, which is the name of one of them. Each of the spouses may also keep their current surname or combine with the existing surnames of the other spouse. The surname formed from the merger may not consist of more than two parts (words). In the event of failure to submit declarations on surnames, each spouse retains their existing surname.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      There are no specific regulations on surnames for cohabitating partners, there are some single cases of assigning the surname of one of the same-sex partners to the other on the ground of “an important reason” in light of art. 4.1 of the law of 17 October 2008 on change of names and surnames. There are no reported similar cases with regard to different-sex couples. However, similar decisions cannot be excluded in administrative practice.</p>	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.14 - Living together**

Do partners in this type of relationship have a duty to live together in the same house?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 2014	2015 Doubt 1997	2015 Doubt 2012
				? 0000	? 0000
<b>References to legal sources:</b> Art. 23 ustawy z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 23 of The Law from 25 February 1964 the Family and Guardianship Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> The spouses are obliged to having a common life, to mutual help and fidelity and to cooperation for the good of the family. The common life is interpreted by the courts and doctrine as an economic, physical (sexual) and mental bond.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> There is not enough court practice in this field, however, the doctrine says that when they want to state the existence of cohabitation the cohabitating partners need to be comparable to marriage and this means having a "common life" as it is interpreted in case of marriage.	

Jurisdiction: **Poland**

Source: K. Smiszek, "Formalisation of legal family formats in Poland". 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-PL-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.15 - Sex**

Does the law require relationships of this type to be sexual or intimate?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes, but 1997	2015 Yes, but 2008
				? 0000	Doubt 1997
<b>References to legal sources:</b> Art. 23 ustawy z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 23 of The Law from 25 February 1964 the Family and Guardianship Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	



Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      The spouses are obliged to having a common life, to mutual help and fidelity and to cooperation for the good of the family. The common life is interpreted by the courts and the doctrine as an economic, physical (sexual) and mental bond. The obligation of conducting intimate relations is not required literally, but lack of it is one of the evidences of absence of "common life".</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      There is no specific regulation on this issue as the legal concept of cohabitation remains generally unknown to the Polish law. However, there are some situations where remaining in the informal relation (both same-sex and opposite-sex) and leading "common life" may create specific rights and obligations. Partners may be recognised as leading "common life" in the situation when it resembles marital life which consists of, inter alia, intimate relations.</p>	