

Splitting up and legal family formats in Poland

by Krzysztof Smiszek¹

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 5 – Splitting up)

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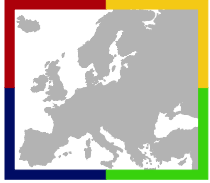
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



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Disclaimer

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

The six sections of the questionnaire

The interactive LawsAndFamilies Database is based on the [LawsAndFamilies questionnaire](#), which consists of six sections:

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

Papers and an interactive database

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

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

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

About the questionnaire

The [full text of the questionnaire](#) can be found in the paper:

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

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

About the answers

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

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

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

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

The six papers about 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):

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 5 (Splitting up)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 5.1 Dissolution by court**
- 5.2 Agreed administrative dissolution**
- 5.3 Unilateral administrative dissolution**
- 5.4 Agreed informal dissolution**
- 5.5 Unilateral informal dissolution**
- 5.6 Dissolution by marrying someone else**
- 5.7 Ending by conversion**
- 5.8 Ending by marrying each other**
- 5.9 Property at dissolution**
- 5.10 Alimony**
- 5.11 Parental authority**
- 5.12 General background regarding splitting up**

In the following pages of this paper, first the answer to question 5.12 is presented, followed by the answers to questions 5.1 to 5.11.

5.12 - General background regarding splitting up (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 splitting up, then please do so here.

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Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.01 - Dissolution by court**

Can this type of relationship be ended by court decision?

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 N/A 0000	X	X
References to legal sources: Art. 56 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 56 of the law from 25 February 1964: Family and Guardianship Code).		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.02 - Agreed administrative dissolution**

Can this type of relationship be ended by mutual agreement in an administrative procedure?

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	X	X
References to legal sources:		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.03 - Unilateral administrative dissolution**

Can this type of relationship be ended by one partner unilaterally in an administrative procedure?

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	X	X
References to legal sources:		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.04 - Agreed informal dissolution**

Can this type of relationship be ended by mutual agreement without involvement of any authority?

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	X	X
References to legal sources:		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.05 - Unilateral informal dissolution**

Can this type of relationship be ended by one partner unilaterally without involvement of any authority?

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	X	X
References to legal sources:		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.06 - Dissolution by marrying someone else**

Can a registered partnership be ended by one partner marrying someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 N/A 0000	X	X
		References to legal sources:			
		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.07 - Ending by conversion**

Can this type of relationship be ended by the partners by way of conversion (of a marriage into a registered partnership or vice versa)?

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	X	X
References to legal sources:		References to legal sources:			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.08 - Ending by marrying each other**

Can a registered partnership be ended by the partners marrying each other?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 N/A 0000	X	X
		References to legal sources:			
		Explanations and nuances:			

Jurisdiction: **Poland**

Source: K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.09 - Property at dissolution**

In case the partners split up, do statutory rules consider as joint property any possessions acquired by either of them after they started this type of relationship?

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 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
References to legal sources: Art. 31 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 31 of the law from 25 February 1964: Family and Guardianship Code).		References to legal sources:		References to legal sources:	
Explanations and nuances: Provided that the partners did not sign any other marital contract.		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Poland**

Source: **K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).**

Section: **5 - Splitting up**

Question: **5.10 - Alimony**

In case the partners split up, do statutory rules on alimony apply?

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 No 0000	2015 No 0000
References to legal sources: Art. 60 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 60 of the law from 25 February 1964: Family and Guardianship Code.		References to legal sources:		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The divorced spouse who has not been found to be the only one guilty of the marriage breakdown and who is in poverty, may request the other spouse to provide reasonable maintenance. If one of the spouses was considered as the only one who is guilty of breakdown, and divorce entails a substantial deterioration in the financial situation of the innocent spouse, the court at the request of the innocent spouse may rule that the spouse exclusively guilty is obliged to contribute in an appropriate range to satisfy the justified needs of the innocent spouse. Even if the one who is innocent was not in scarcity. The obligation to provide maintenance to a divorced spouse shall expire in case of conclusion by the spouse (who is paid the alimony) of a new marriage. However, in a situation where the divorced spouse who is obliged to pay alimony has not been found guilty of the marriage breakdown, this obligation also expires at the end of five years after the divorce, unless due to exceptional circumstances, the court, at the request of the holder, extends the said term of five years.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Poland**

Source: **K. Smiszek, "Splitting up and 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, [LawsAndFamilies-PL-Section5.pdf](#) (please use this full citation when citing any information from this table).**

Section: **5 - Splitting up**

Question: **5.11 - Parental authority**

In case the partners split up, do statutory rules on parental authority/responsibility apply?

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 1964	2015 No 0000
References to legal sources: Art. 92 - 112 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 92-112 of the law from 25 February 1964: Family and Guardianship Code).		References to legal sources:		References to legal sources: Art. 92 - 112 ustawa z dnia 25 lutego 1964 Kodeks rodzinny i opiekuńczy (Art. 92-112 of the law from 25 February 1964: Family and Guardianship Code).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A general principle of Polish law is that parental authority is exercised by both parents. The law includes few ways of regulating the parental authority depending on the decision of the court. The court may allow full parental authority to both parents, confer full parental authority to one parent while limiting the power of the other to the specific rights and duties (e.g. duty of providing alimonies, possibilities to visiting the child), and also limit parental authority of one or both parents, suspend the parental authority of one or both parents and deprived one or both parents of parental authority.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: A general principle of Polish law is that parental authority is exercised by both parents. The court is the only competent authority that decides about the parental authority in case of special circumstances that concern parents and the child.</p>	