

# Income, troubles and legal family formats in Romania

by Constantin Cojocariu <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 2 – Income and troubles)

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



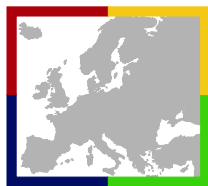
<sup>3</sup> Institut national d'études démographiques, Paris, France, [www.ined.fr](http://www.ined.fr).



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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 Romania

The answers concerning Romania 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 Romania by Iustina Ionescu (Section 1)

#### Income, troubles and legal family formats in Romania by Constantin Cojocariu (Section 2)

#### Parenting and legal family formats in Romania by Constantin Cojocariu (Section 3)

#### Migration and legal family formats in Romania by Iustina Ionescu (Section 4)

#### Splitting up and legal family formats in Romania by Constantin Cojocariu (Section 5)

#### Death and legal family formats in Romania by Iustina Ionescu (Section 6)

So this paper is based on **Section 2 (Income and troubles)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 2.1 Lower income tax
- 2.2 Social benefits
- 2.3 Health insurance
- 2.4 Care between partners
- 2.5 Care for a parent
- 2.6 Next of kin
- 2.7 Domestic violence
- 2.8 Criminal procedure
- 2.9 General background regarding income and troubles

In the following pages of this paper, first the answer to question 2.9 is presented, followed by the answers to questions 2.1 to 2.8.

**2.09 - General background regarding income and troubles (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, family support, etc.) that may be relevant for the understanding of your answers above regarding income and troubles, then please do so here.

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Jurisdiction: **Romania**

Source: **C. Cojocariu**, "Income, troubles and legal family formats in Romania". 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-RO-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.01 - Lower income tax**

Can a relationship of this type result in lower income tax than for two individuals without a partner?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2004	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 2004	2015 No 2004
? 0000				? 0000	? 0000
<b>References to legal sources:</b> Art. 56 of the Law no. 571/2003 on the Fiscal Code, which entered into force on 1 January 2004.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 56 of the Law no. 571/2003 on the Fiscal Code, which entered into force on 1 January 2014.	
<b>Explanations and nuances:</b> According to the above-mentioned provision, employees who earn an income below a certain threshold benefit from tax breaks depending on the number of persons they have in their care, including spouses and other family members.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> According to the above-mentioned provision, employees who earn an income below a certain threshold benefit from tax breaks depending on the number of persons they have in their care, including spouses and other family members, but not cohabiting partners.	

Jurisdiction: **Romania**

Source: **C. Cojocariu**, "Income, troubles and legal family formats in Romania". 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-RO-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.02 - Social benefits**

When one partner (long-term unemployed or even never having been employed at all) would be entitled to a basic social benefit, will the income of the other partner then be taken into consideration and will it possibly result in loss or reduction of this entitlement?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 2011	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes, but 2011	2015 No 2011
Yes, but 2006				Yes, but 2006	No 2006
? 0000				? 0000	? 0000
<b>References to legal sources:</b> Art. 22 of the Law no. 292/2011 on Social Assistance.  Arts. 17-18 of the Law no. 47/2006 on the national system of social assistance (2006-2011).		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 22 of the Law no. 292/2011 on Social Assistance.  Arts. 17-18 of the Law no. 47/2006 on the national system of social assistance (2006-2011).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      Some social benefits are allocated based on the income of the family unit, where the family notion is narrowly defined as husband and wife or cohabiting different-sex couple.</p> <p>On the other hand, the entitlement to an unemployment allowance does not depend on the income of the spouse/partner.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      Some social benefits are allocated based on the income of the family unit, where the family notion is narrowly defined as husband and wife or cohabiting different-sex couple.</p> <p>On the other hand, the entitlement to an unemployment allowance does not depend on the income of the spouse/partner.</p>	

Jurisdiction: **Romania**

Source: C. Cojocariu, "Income, troubles and legal family formats in Romania". 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-RO-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.03 - Health insurance**

Is the amount of money that the two partners in this type of relationship would have to pay for (public or private) health insurance, normally smaller than what two individuals without a partner would have to pay?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 2004	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 2004	2015 No 2004
? 0000				? 0000	? 0000
<b>References to legal sources:</b> Art. 296.20 §1(c) of the Law no. 571/2003 on the Fiscal Code, which entered into force on 1 January 2004.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 296.20 §1(c) of the Law no. 571/2003 on the Fiscal Code, which entered into force on 1 January 2014.	
<b>Explanations and nuances:</b> Marriage does not normally benefit from a preferential regime if both spouses have an income; however, if one of the spouses is in the care of the other spouse, he/she does not have to pay for public health insurance.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> The exemption from paying health insurance, benefits married couples exclusively.	



Jurisdiction: **Romania**

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Section: **2 - Income and Troubles**

Question: **2.04 - Care between partners**

In case one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 1992	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No, but 1992	2015 No, but 1992
? 0000				? 0000	? 0000
<p><b>References to legal sources:</b> Art. 153 of the Law no. 53/2003 on the Labour Code.</p> <p>Art. 25 of the Governmental Decision no. 250/1992 on annual leave and other types of leave of salaried employees in the public administration, in the autonomous establishments with special status and in budgetary agencies.</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b> Art. 153 of the Law no. 53/2003 on the Labour Code.</p> <p>Art. 25 of the Governmental Decision no. 250/1992 on annual leave and other types of leave of salaried employees in the public administration, in the autonomous establishments with special status and in budgetary agencies.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      This type of leave may potentially come under the category of statutory unpaid leave, in accordance with Art. 153 of the Labour Code. Special regulations detailing employees' entitlements differ depending on the particular sector of economy or employer involved. For instance, although Art. 25 of the Governmental Decision no. 250/1992 applying to employees in public administration does not refer specifically to the scenario envisaged here, it leaves it open to employees and employers to agree on extending unpaid leave to other unspecified situations.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      This type of leave may potentially come under the category of statutory unpaid leave, in accordance with Art. 153 of the Labour Code. Special regulations detailing employees' entitlements differ depending on the particular sector of economy or employer involved. For instance, although Art. 25 of the Governmental Decision no. 250/1992 applying to employees in public administration, does not refer specifically to the scenario envisaged here, it leaves it open to employees and employers to agree on extending unpaid leave to other unspecified situations.</p>	

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Section: **2 - Income and Troubles**

Question: **2.05 - Care for a parent**

In case the parent of one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 1992	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No, but 1992	2015 No, but 1992
? 0000				? 0000	? 0000
<p><b>References to legal sources:</b> Art. 153 of the Law no. 53/2003 on the Labour Code.</p> <p>Art. 25 of the Governmental Decision no. 250/1992 on annual leave and other types of leave of salaried employees in the public administration, in the autonomous establishments with special status and in budgetary agencies.</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b> Art. 153 of the Law no. 53/2003 on the Labour Code.</p> <p>Art. 25 of the Governmental Decision no. 250/1992 on annual leave and other types of leave of salaried employees in the public administration, in the autonomous establishments with special status and in budgetary agencies.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      This type of leave may potentially come under the category of statutory unpaid leave, in accordance with the Labour Code. Special regulations detailing employees' entitlements differ depending on the particular sector of economy or employer involved. For instance, although Art. 25 of the Governmental Decision no. 250/1992 applying to employees in public administration does not refer specifically to the scenario envisaged here, it leaves it open to employees and employers to agree on extending unpaid leave to other unspecified situations.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      This type of leave may potentially come under the category of statutory unpaid leave, in accordance with the Labour Code. Special regulations detailing employees' entitlements differ depending on the particular sector of economy or employer involved. For instance, although Art. 25 of the Governmental Decision no. 25/1992 applying to employees in public administration does not refer specifically to the scenario envisaged here, it leaves it open to employees and employers to agree on extending unpaid leave to other unspecified situations.</p>	

Jurisdiction: **Romania**

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Section: **2 - Income and Troubles**

Question: **2.06 - Next of kin**

In case of accident or illness of one partner, is the other partner considered as next of kin for medical purposes (even without power of attorney)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2003	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Doubt 2012	2015 Doubt 2012
? 0000				Doubt 2003	Doubt 2003
				? 0000	? 0000
<b>References to legal sources:</b> Art. 32 of Law no. 46/2003 on the patients' rights.  Order no. 1284/17 December 2012 on the regulation of visitation programme of the next of kin of patients hospitalised in public hospitals.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 32 of Law no. 46/2003 on the patients' rights.  Order no. 1284/17 December 2012 on the regulation of visitation programme of the next of kin of patients hospitalised in public hospitals.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            Art. 32 of Law no. 46/2003 provides that the patients shall benefit from the support of family "and friends" throughout the duration of medical care, which wording may be interpreted to include cohabiting same-sex and different-sex cohabiting partners. Order no. 1284, lower in rank than a law, only refers to next of kin, although clearly it is not capable of modifying a law.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            Art. 32 of Law no. 46/2003 provides that the patients shall benefit from the support of family "and friends" throughout the duration of medical care, which wording may be interpreted to include cohabiting same-sex and different-sex cohabiting partners. However, Order no. 1284, lower in rank than a law, focuses exclusively on next of kin, clearly excluding same-sex or different-sex cohabiting partners.</p>	

Jurisdiction: **Romania**

Source: C. Cojocariu, "Income, troubles and legal family formats in Romania". 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-RO-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.07 - Domestic violence**

When one partner uses violence against the other partner, does specific statutory protection apply?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2003	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2003	2015 Doubt 2003
No 0000				No 0000	No 0000
<b>References to legal sources:</b> Art. 5 of Law no. 217/2003 on the prevention and combating of violence in the family.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 5 of Law no. 217/2003 on the prevention and combating of violence in the family.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            Art. 5 of Law no. 217/2003 clarifies that the law applies to "the persons who have established similar relationships to those between spouses or between parents and children, if they live in cohabitation".</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            Insofar as relevant for our purposes, the above-mentioned provision restricts the personal scope of the law to "the persons who have established similar relationships to those between spouses or between parents and children, if they live in cohabitation". It is not clear from law, doctrine or practice if cohabiting same-sex couples are considered to be in a similar position to married couples for the purposes of this law.</p>	



Jurisdiction: **Romania**

Source: C. Cojocariu, "Income, troubles and legal family formats in Romania". 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-RO-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.08 - Criminal procedure**

In case of a criminal prosecution against one partner, can the other partner then refuse to testify against the partner who is being prosecuted?

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 2014	2015 No 2014
Yes 1968				No 1968	No 1968
? 0000				? 0000	? 0000
<b>References to legal sources:</b> Art. 141 of the Law no. 135/2010 on the Criminal Procedure Code, which entered into force on 1 February 2014.  Art. 80 of the Criminal Procedure Code of 12 November 1968.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 141 of the Law no. 135/2010 on the Code of Criminal Procedure, which entered into force on 1 February 2014.  Art. 80 of the Criminal Procedure Code of 12 November 1968.	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	