

Income, troubles and legal family formats in Belgium

by Geoffrey Willems¹

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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of the answers in this section of the database.

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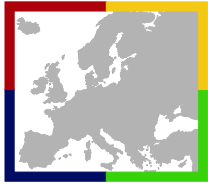


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FamiliesAndSocieties

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. 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 Belgium

The answers concerning Belgium 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 Belgium

by Paul Borghs (Section 1)

Income, troubles and legal family formats in Belgium

by Geoffrey Willems (Section 2)

Parenting and legal family formats in Belgium

by Paul Borghs (Section 3)

Migration and legal family formats in Belgium

by Geoffrey Willems (Section 4)

Splitting up and legal family formats in Belgium

by Paul Borghs (Section 5)

Death and legal family formats in Belgium

by Geoffrey Willems (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: **Belgium**

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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, but 2005	2015 Yes, but 2005	2015 Yes, but 2005	2015 Yes, but 2005	2015 No 0000	2015 No 0000
No 0000	No 2003	No 2000	No 2000		
	N/A 0000	N/A 0000	N/A 0000		
<p>References to legal sources: Art. 2, 33, 86, 87, 88, 126 and 133 Income Tax Code, as amended by Law of 10 August 2001 reforming personal taxation (Moniteur belge, 20 September 2001, p. 31516, in force since 2005).</p>		<p>References to legal sources: Art. 2, 33, 86, 87, 88, 126 and 133 Income Tax Code, as amended by Law of 10 August 2001 reforming personal taxation (Moniteur belge, 20 September 2001, p. 31516, in force since 2005).</p>		<p>References to legal sources: Art. 133 Income Tax Code, as amended by Law of 10 August 2001 reforming personal taxation (Moniteur belge, 20 September 2001, p. 31516, in force since 2005).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Before 2005, spouses' incomes were aggregated to calculate the level of taxation. This system obviously penalised married couples.</p> <p>Since 2005 and the entry into force of the law reforming personal taxation, incomes are not anymore aggregated to calculate the level of taxation.</p> <p>Spouses are taxed jointly (art. 126 Income Tax Code).</p> <p>The main advantage of this joint taxation is the "marital quotient" mechanism that allows to allocate a portion of the taxable income of the wealthier spouse to the spouse with lower income to reduce the taxation level (art. 87 and 88 Income Tax Code).</p> <p>Furthermore, if a spouse is assisting the other spouse in his or her professional independent activity the same mechanism applies (art. 33 and 86 Income Tax Code).</p> <p>However, some tax law provisions impact negatively on the situation of spouses, the main disadvantage being that they do not benefit from the same exempt portion as singles when they have dependent children (art. 133, Income Tax Code).</p>		<p>Explanations and nuances: Since 2005 and the entry into force of the law reforming personal taxation, registered partnership has been equivalent to marriage (art. 2 Income Tax Code).</p> <p>Registered partners are taxed jointly (art. 126 Income Tax Code).</p> <p>The main advantage of this joint taxation is the "marital quotient" mechanism that allows to allocate a portion of the taxable income of the wealthier partner to the partner with lower income to reduce the taxation level (art. 87 and 88 Income Tax Code).</p> <p>Furthermore, if a partner is assisting the other partner in his or her professional independent activity the same mechanism applies (art. 33 and 86 Income Tax Code).</p> <p>Some tax law provisions impact negatively on the situation of partners, the main disadvantage being that they do not benefit from the same exempt portion as singles when they have dependent children (art. 133, Income Tax Code).</p>		<p>Explanations and nuances: De facto partners are considered as two single taxpayers. However, as explained in columns "marriage" and "registered partnership", singles do benefit from an extra exempt portion when they have dependent children (art. 133, Income Tax Code).</p>	

Jurisdiction: **Belgium**

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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 1980	2015 Yes 2003	2015 Yes 2000	2015 Yes 2000	2015 Yes 1980	2015 Yes 1980
No 0000	N/A 0000	N/A 0000	N/A 0000	No 0000	No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Royal decree of 24 December 1980 modifying the royal decree of 20 December 1963 on employment and unemployment, Moniteur belge, 31 December 1980, p. 14651.</p> <p>Art. 59 of the ministerial decree of 26 November 1991 on the implementation of the regulation on unemployment benefits (Moniteur belge, 25 January 1992, p. 1593).</p> <p>Art. 110 of the royal decree of 25 November 1991 regulating unemployment benefits (31 December 1991, p. 29888).</p> <p>Art. 57 of the Law of 8 July 1976 on social assistance (Moniteur belge, 5 August 1976, p. 9876).</p> <p>Art. 14 of the law of 26 May 2002 on social integration (Moniteur belge, 31 July 2002, p. 33610).</p>		<p>References to legal sources: Royal decree of 24 December 1980 modifying the royal decree of 20 December 1963 on employment and unemployment, Moniteur belge, 31 December 1980, p. 14651.</p> <p>Art. 59 of the ministerial decree of 26 November 1991 on the implementation of the regulation on unemployment benefits (Moniteur belge, 25 January 1992, p. 1593).</p> <p>Art. 110 of the royal decree of 25 November 1991 regulating unemployment benefits (31 December 1991, p. 29888).</p> <p>Art. 57 of the Law of 8 July 1976 on social assistance (Moniteur belge, 5 August 1976, p. 9876).</p> <p>Art. 14 of the law of 26 May 2002 on social integration (Moniteur belge, 31 July 2002, p. 33610).</p>		<p>References to legal sources: Royal decree of 24 December 1980 modifying the royal decree of 20 December 1963 on employment and unemployment, Moniteur belge, 31 December 1980, p. 14651.</p> <p>Art. 59 of the ministerial decree of 26 November 1991 on the implementation of the regulation on unemployment benefits (Moniteur belge, 25 January 1992, p. 1593).</p> <p>Art. 110 of the royal decree of 25 November 1991 regulating unemployment benefits (31 December 1991, p. 29888).</p> <p>Art. 57 of the Law of 8 July 1976 on social assistance (Moniteur belge, 5 August 1976, p. 9876).</p> <p>Art. 14 of the law of 26 May 2002 on social integration (Moniteur belge, 31 July 2002, p. 33610).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: For the granting of basic social benefits, the main criterion is the existence or the absence of a "cohabitation" in the factual sense.</p> <p>Accordingly, in many areas of Belgian social law, spouses, legal cohabitants and de facto partners are in exactly the same position.</p> <p>This is true for unemployment allowance, right to social integration and right to social assistance.</p> <p>When an unemployed person is cohabiting with another person or other persons who benefit(s) from incomes, he is considered as a "travailleur cohabitant" and his or her unemployment allowance is reduced.</p> <p>This concept of "travailleur cohabitant" was introduced in Belgian law by a royal decree of 24 December 1980.</p> <p>The same applies for the right to social integration. According to the law of 26 May 2002, the allowance will be reduced in case of cohabitation.</p> <p>The law of 1976 on social assistance does not provide for precise rates for specified categories. However, in practice, the majority of the case-law applies the same categories and rates as for social integration (E. Dermine et F. Reusens, "Les effets en droit social", in Le statut juridique du couple marié et du couple non marié en droit belge et français (dir. J. Hauser et J.-L. Renchon), Bruxelles, Larcier, 2012, pp. 222-224).</p>		<p>Explanations and nuances: For the granting of basic social benefits, the main criterion is the existence or the absence of a "cohabitation" in the factual sense.</p> <p>Accordingly, in many areas of Belgian social law, spouses, legal cohabitants and de facto partners are in exactly the same position.</p> <p>This is true for unemployment allowance, right to social integration and right to social assistance.</p> <p>When an unemployed person is cohabiting with another person or other persons who benefit(s) from incomes, he is considered as a "travailleur cohabitant" and his or her unemployment allowance is reduced.</p> <p>This concept of "travailleur cohabitant" was introduced in Belgian law by a royal decree of 24 December 1980.</p> <p>The same applies for the right to social integration. According to the law of 26 May 2002, the allowance will be reduced in case of cohabitation.</p> <p>The law of 1976 on social assistance does not provide for precise rates for specified categories. However, in practice, the majority of the case-law applies the same categories and rates as for social integration (E. Dermine et F. Reusens, "Les effets en droit social", in Le statut juridique du couple marié et du couple non marié en droit belge et français (dir. J. Hauser et J.-L. Renchon), Bruxelles, Larcier, 2012, pp. 222-224).</p>		<p>Explanations and nuances: For the granting of basic social benefits, the main criterion is the existence or the absence of a "cohabitation" in the factual sense.</p> <p>Accordingly, in many areas of Belgian social law, spouses, legal cohabitants and de facto partners are in exactly the same position.</p> <p>This is true for unemployment allowance, right to social integration and right to social assistance.</p> <p>When an unemployed person is cohabiting with another person or other persons who benefit(s) from incomes, he is considered as a "travailleur cohabitant" and his or her unemployment allowance is reduced.</p> <p>This concept of "travailleur cohabitant" was introduced in Belgian law by a royal decree of 24 December 1980.</p> <p>The same applies for the right to social integration. According to the law of 26 May 2002, the allowance will be reduced in case of cohabitation.</p> <p>The law of 1976 on social assistance does not provide for precise rates for specified categories. However, in practice, the majority of the case-law applies the same categories and rates as for social integration (E. Dermine et F. Reusens, "Les effets en droit social", in Le statut juridique du couple marié et du couple non marié en droit belge et français (dir. J. Hauser et J.-L. Renchon), Bruxelles, Larcier, 2012, pp. 222-224).</p>	

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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 1996	2015 No, but 2003	2015 No, but 2000	2015 No, but 2000	2015 No, but 1996	2015 No, but 1996
? 0000	N/A 0000	N/A 0000	N/A 0000	? 0000	? 0000
<p>References to legal sources: Law of 14 July 1994 relating to the mandatory health care insurance scheme (Moniteur belge, 27 August 1994, p. 21524).</p> <p>Royal decree of 3 July 1996 on the implementation of the mandatory health care insurance scheme (Moniteur belge, 1 July 1996, p. 20285).</p>		<p>References to legal sources: Law of 14 July 1994 relating to the mandatory health care insurance scheme (Moniteur belge, 27 August 1994, p. 21524).</p> <p>Royal decree of 3 July 1996 on the implementation of the mandatory health care insurance scheme (Moniteur belge, 1 July 1996, p. 20285).</p>		<p>References to legal sources: Law of 14 July 1994 relating to the mandatory health care insurance scheme (Moniteur belge, 27 August 1994, p. 21524).</p> <p>Royal decree of 3 July 1996 on the implementation of the mandatory health care insurance scheme (Moniteur belge, 1 July 1996, p. 20285).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Belgium has a mandatory health care insurance scheme.</p> <p>In this system, health care will be reimbursed not only to the insured person but also to the persons who are part of his or her household (art. 123 and 124 of the royal decree of 3 July 1996).</p> <p>This applies only if the partner's income does not exceed a certain amount specified by the law.</p> <p>As to the principle, there is no difference between spouses, registered partners and de facto partners.</p> <p>Nevertheless, spouses are in a better situation in case of death. The surviving spouse will continue to benefit from the mandatory insurance as if he was still part of the household of the insured (art. 32 of the Law of 14 July 1994).</p>		<p>Explanations and nuances: Belgium has a mandatory health care insurance scheme.</p> <p>In this system, health care will be reimbursed not only to the insured person but also to the persons who are part of his or her household (art. 123 and 124 of the royal decree of 3 July 1996).</p> <p>This applies only if the partner's income does not exceed a certain amount specified by the law.</p> <p>As to the principle, there is no difference between spouses, registered partners and de facto partners.</p>		<p>Explanations and nuances: Belgium has a mandatory health care insurance scheme.</p> <p>In this system, health care will be reimbursed not only to the insured person but also to the persons who are part of his or her household (art. 123 and 124 of the royal decree of 3 July 1996).</p> <p>This applies only if the partner's income does not exceed a certain amount specified by the law.</p> <p>As to the principle, there is no difference between spouses, registered partners and de facto partners.</p>	

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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 Yes 1998	2015 Yes 2003	2015 Yes 2000	2015 Yes 2000	2015 Yes 1998	2015 Yes 1998
No, but 1994	N/A 0000	N/A 0000	N/A 0000	No, but 1994	No, but 1994
? 0000				? 0000	? 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>		<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>		<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Belgian law provides for a leave on grounds of medical assistance for a member of the household who is seriously ill.</p> <p>The Royal decree of 10 August 1998 provides that workers have the right to interrupt their career (12 months max.) or to reduce their working hours (24 months max.) to take care of a member of their "household" (ménage) who is seriously ill.</p> <p>The notion of "household" includes all people who cohabit with the concerned person.</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994). This type of leave is possible for any kind of person (even for the assistance of non family members).</p>		<p>Explanations and nuances: Belgian law provides for a leave on grounds of medical assistance for a member of the household who is seriously ill.</p> <p>The Royal decree of 10 August 1998 provides that workers have the right to interrupt their career (12 months max.) or to reduce their working hours (24 months max.) to take care of a member of their "household" (ménage) who is seriously ill.</p> <p>The notion of "household" includes all people who cohabit with the concerned person.</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994). This type of leave is possible for any kind of person (even for the assistance of non family members).</p>		<p>Explanations and nuances: Belgian law provides for a leave on grounds of medical assistance for a member of the household who is seriously ill.</p> <p>The Royal decree of 10 August 1998 provides that workers have the right to interrupt their career (12 months max.) or to reduce their working hours (24 months max.) to take care of a member of their "household" (ménage) who is seriously ill.</p> <p>The notion of "household" includes all people who cohabit with the concerned person.</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994). This type of leave is possible for any kind of person (even for the assistance of non family members).</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 Yes 1998	2015 Yes 2003	2015 No, but 2000	2015 No, but 2000	2015 No, but 1994	2015 No, but 1994
No, but 1994	N/A 0000	N/A 0000	N/A 0000	? 0000	? 0000
? 0000					

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>		<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>		<p>References to legal sources: Art. 3 and 4 of Royal decree of 10 August 1998 introducing a right to a career interruption to assist or to provide care to a member of the household or of the family seriously ill (Moniteur belge, 8 September 1998, p. 28855).</p> <p>Art. 100bis of the Law of 22 January 1985 containing social provisions (Moniteur belge, 24 January 1985, p. 699) (as amended by the Law of 21 December 1994 containing various social provisions, Moniteur belge, 23 December 1994, p. 31878).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Belgian law provides for a leave on grounds of medical assistance for a member of the family who is seriously ill.</p> <p>The Royal decree of 10 August 1998 provides that workers have the right to interrupt their career (12 months max.) or to reduce their working hours (24 months max.) to take care of a member of their family.</p> <p>According to the same provision, this applies as well to parents as to relatives ("parents et alliés").</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994).</p> <p>This type of leave is possible for any kind of person (even for the assistance of non family members).</p>		<p>Explanations and nuances: According to article 4 of the Royal decree of 10 August 1998, the partner will be entitled to a leave only if the parent of the other partner lives in the household (see question 2.04).</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994).</p> <p>This type of leave is possible for any kind of person (even for the assistance of non family members).</p>		<p>Explanations and nuances: According to article 4 of the Royal decree of 10 August 1998, the de facto partner will be entitled to a leave only if the parent of the other partner lives in the household (see question 2.04).</p> <p>Besides the leave on grounds of medical assistance there's also a leave for palliative care under article 100bis of the Law of 22 January 1985 (as amended by a Law of 21 December 1994).</p> <p>This type of leave is possible for any kind of person (even for the assistance of non family members).</p>	

Jurisdiction: **Belgium**

Source: **G. Willems**, "Income, troubles and legal family formats in Belgium". 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-BE-Section2.pdf](#) (please use this full citation when citing any information from this table).

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 2002	2015 Yes 2003	2015 Yes 2002	2015 Yes 2002	2015 Yes 2002	2015 Yes 2002
? 0000	N/A 0000	? 2000	? 2000	? 0000	? 0000
		N/A 0000	N/A 0000		
References to legal sources: Art. 14 § 3 of the Law of 22 August 2002 on patient rights (Moniteur belge, 26 September 2002, p. 43719, in force from 6 October 2002).		References to legal sources: Art. 14 § 3 of the Law of 22 August 2002 on patient rights (Moniteur belge, 26 September 2002, p. 43719, in force from 6 October 2002).		References to legal sources: Art. 14 § 3 of the Law of 22 August 2002 on patient rights (Moniteur belge, 26 September 2002, p. 43719, in force from 6 October 2002).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In Belgian law, a patient unable to make medical decisions may be represented by different persons.</p> <p>Firstly, the concerned person may appoint a special representative (mandataire) by specific, written, dated and signed declaration.</p> <p>If there is no special representative and the person concerned is under a protection status, then his or her personal administrator (administrateur de la personne) will represent her for the exercise of patient's rights (about this measure of protection see Law of 17 March 2013 creating a new protection status in accordance with human dignity, Moniteur belge, 14 June 2013, p. 38132, in force from 1 September 2014).</p> <p>If there is no special representative and no personal administrator, then the spouse of the concerned person represents him or her for the exercise of his or her patient's rights.</p> <p>It should be noted, that the spouse may be appointed as special representative or personal administrator (art. 496/3 Civil Code).</p>		<p>Explanations and nuances: In Belgian law, a patient unable to make medical decisions may be represented by different persons.</p> <p>Firstly, the concerned person may appoint a special representative (mandataire) by specific, written, dated and signed declaration.</p> <p>If there is no special representative and the person concerned is under a protection status, then his or her personal administrator (administrateur de la personne) will represent her for the exercise of patient's rights (about this measure of protection see Law of 17 March 2013 creating a new protection status in accordance with human dignity, Moniteur belge, 14 June 2013, p. 38132, in force from 1 September 2014).</p> <p>If there is no special representative and no personal administrator, then the registered partner of the concerned person represents him or her for the exercise of his or her patient's rights.</p> <p>It should be noted, that the registered partner may be appointed as special representative or personal administrator (art. 496/3 Civil Code).</p>		<p>Explanations and nuances: In Belgian law, a patient unable to make medical decisions may be represented by different persons.</p> <p>Firstly, the concerned person may appoint a special representative (mandataire) by specific, written, dated and signed declaration.</p> <p>If there is no special representative and the person concerned is under a protection status, then his or her personal administrator (administrateur de la personne) will represent her for the exercise of patient's rights (about this measure of protection see Law of 17 March 2013 creating a new protection status in accordance with human dignity, Moniteur belge, 14 June 2013, p. 38132, in force from 1 September 2014).</p> <p>If there is no special representative and no personal administrator, then the de facto partner of the concerned person represents him or her for the exercise of his or her patient's rights.</p> <p>It should be noted, that the de facto partner may be appointed as special representative or personal administrator (art. 496/3 Civil Code).</p>	

Jurisdiction: **Belgium**

Source: **G. Willems**, "Income, troubles and legal family formats in Belgium". 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-BE-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 Yes 2003	2015 Yes 2003	2015 Yes 2003	2015 Yes, but 1998	2015 Yes, but 1998
Yes, but 1998	N/A 0000	Yes, but 2000	Yes, but 2000	No 0000	No 0000
No 0000		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: Art. 1253ter/5 of the Judicial Code and art. 1447 of the Civil Code (Law of 28 January 2003 aiming at allocating the matrimonial home to the partner victim of physical violence, Moniteur belge, 12 March 2003, p. 7022).</p> <p>Art. 410 of the Penal Code (as amended by the Law of 24 november 1997 aiming at combating domestic violence, Moniteur belge, 6 February 1998, p. 3353).</p>		<p>References to legal sources: Art. 1253ter/5 of the Judicial Code (Law of 28 January 2003 aiming at allocating the matrimonial home to the partner victim of physical violence, Moniteur belge, 12 March 2003, p. 7022).</p> <p>Art. 410 of the Penal Code (as amended by the Law of 24 november 1997 aiming at combating domestic violence, Moniteur belge, 6 February 1998, p. 3353).</p>		<p>References to legal sources: Law of 28 January 2003 aiming at allocating the matrimonial home to the partner victim of physical violence (Moniteur belge, 12 March 2003, p. 7022).</p> <p>Art. 410 of the Penal Code (as amended by the Law of 24 november 1997 aiming at combating domestic violence, Moniteur belge, 6 February 1998, p. 3353).</p>	
<p>Explanations and nuances: Since the law of 28 January 2003, if a spouse commits acts of violence against his or her partner, then the other partner will be (almost) automatically awarded use of the family residence during the separation and divorce procedure (unless there are exceptional circumstances)(art. 1253ter/5 of the Judicial Code).</p> <p>After divorce, the victim of domestic violence will have a preferential right to acquire the sole property of the common residence, but this applies only under the community of property regime (art. 1447 of the Civil Code).</p> <p>Furthermore, since 1998, the fact that an act of violence is committed against the spouse is an aggravating circumstance under penal law (art. 410 Penal Code).</p>		<p>Explanations and nuances: Since the law of 28 January 2003, if a registered partner commits acts of violence against his or her partner, then the other partner will be (almost) automatically awarded use of the family residence during the separation procedure (unless there are exceptional circumstances) (art. 1253ter/5 of the Judicial Code).</p> <p>Furthermore, since 1998, the fact that an act of violence is committed against the registered partner is an aggravating circumstance under penal law (art. 410 Penal Code).</p>		<p>Explanations and nuances: De facto partners do not have any special right on the common residence in case of domestic violence.</p> <p>Nevertheless, since 1998, the fact that an act of violence is committed against the de facto partner is an aggravating circumstance under penal law.</p> <p>Indeed article 410 of the Penal Code provides that aggravating circumstances apply as soon as two people live (or have lived) together or are (or have been) in an affective and sexual relationship.</p>	

Jurisdiction: **Belgium**

Source: **G. Willems**, "Income, troubles and legal family formats in Belgium". 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-BE-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 0000	2015 Yes 2003	2015 Yes 2010	2015 Yes 2010	2015 No 0000	2015 No 0000
	N/A 0000	No 2000	No 2000		
		N/A 0000	N/A 0000		
<p>References to legal sources: Art. 156 and 189 of the Code of criminal procedure.</p> <p>Art. 303 of the Code of Criminal Procedure (as re-established by the Law of 21 December 2009 concerning reform of the assize court, <i>Moniteur belge</i>, 11 January 2010, p. 751).</p>		<p>References to legal sources: Art. 303 of the Code of Criminal Procedure (as re-established by the Law of 21 December 2009 concerning reform of the assize court, <i>Moniteur belge</i>, 11 January 2010, p. 751).</p>		<p>References to legal sources:</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Spouses are exempted from the obligation to testify against their partner before police courts and criminal courts (art. 156 and 189 of the Code of criminal procedure).</p> <p>These exemptions apply even after divorce.</p> <p>Since 2010, spouses are exempted from the obligation to testify against their partner before the assize court on the basis of art. 303 of the Code of criminal procedure.</p> <p>This exemption applies even after divorce.</p> <p>See: M. Franchimont, A. Jacobs and A. Masset, <i>Manuel de procédure pénale</i>, 4th ed., Bruxelles, Larcier, 2012, p. 1186.</p> <p>Before 2010, former article 322 of the Code of Criminal Procedure already prevented spouse from testifying against each other before the assize court (See: O. de Schutter and K. Waaldijk, "Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners in Belgium", in <i>More or less together</i>, Paris, INED, 2005, pp. 58-59).</p>		<p>Explanations and nuances: Since 2010, legal cohabitants are also exempted from the obligation to testify against their partner before the assize court on the basis of art. 303 of the Code of Criminal Procedure.</p> <p>The exemption applies even after cessation of the legal cohabitation.</p> <p>See: M. Franchimont, A. Jacobs and A. Masset, <i>Manuel de procédure pénale</i>, 4th ed., Bruxelles, Larcier, 2012, p. 1186.</p> <p>Before 2010, former article 322 of the Code of Criminal Procedure did not prevent legal cohabitants from testifying against each other before the assize court (see: O. de Schutter and K. Waaldijk, "Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners in Belgium", in: <i>More or less together</i>, Paris, INED, 2005, pp. 58-59).</p>		<p>Explanations and nuances:</p>	