

Migration 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 4 – Migration)

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of the answers in this section of the database.

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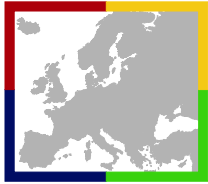


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Disclaimer

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](http://www.LawsAndFamilies.eu) is based on the [LawsAndFamilies questionnaire](http://www.LawsAndFamilies.eu), 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](http://www.LawsAndFamilies.eu), 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](http://www.LawsAndFamilies.eu) 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](http://www.LawsAndFamilies.eu) 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](http://www.LawsAndFamilies.eu).

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 4 (Migration)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

4.1 Partner of national citizen

4.2 Partner of national citizen (foreign status)

4.3 Partner of (non-EU) foreigner

4.4 Partner of EU citizen (foreign status)

4.5 Foreign status as impediment to marry

4.6 Foreign status and inheritance

4.7 Citizenship

4.8 Recognition of joint adoption

4.9 Recognition of second-parent adoption

4.10 General background regarding migration

In the following pages of this paper, first the answer to question 4.10 is presented, followed by the answers to questions 4.1 to 4.9.

4.10 - General background regarding migration (Open question)

If you consider it useful to provide some general information or comments about (past, present or future) developments and trends in legal policy and case law in your country/jurisdiction, or information on other aspects (socio-legal, political, legal-cultural, etc.) that may be relevant for the understanding your answers above regarding migration, then please do so here.

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Jurisdiction: **Belgium**

Source: **G. Willems**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.01 - Partner of national citizen**

When one partner is a residing national citizen, while the other is a foreigner from another continent, will the foreign partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside. As to the meaning of 'residing', see section c of the [Guidance for experts answering questions in the questionnaire](#).)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1980	2015 Yes 2003	2015 Yes, but 2007	2015 Yes, but 2007	2015 No 2009	2015 No 2009
Yes, but 0000	N/A 0000	Yes, but 2000	Yes, but 2000	Yes, but 1997	Yes, but 1997
		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: Art. 40ter juncto art. 40 bis §2(2) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>See also: Law of 2 June 2013 on the fight against sham marriage and sham legal cohabitation (Moniteur belge, 23 September 2013, p. 67119).</p>		<p>References to legal sources: Art. 40ter juncto art. 40 bis §2(2) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Royal Decree of 7 May 2008 implementing some of the provisions of the law on entry in the country and residence (Moniteur belge, 13 May 2008, p. 25090).</p> <p>See also: Law of 2 June 2013 on the fight against sham marriage and sham legal cohabitation (Moniteur belge, 23 September 2013, p. 67119).</p>		<p>References to legal sources: Art. 40ter juncto art. 40 bis §2(2) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Ministerial circular of 17 June 2009 containing provisions concerning family reunification (Moniteur belge, 2 July 2009, p. 45382).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The foreign spouse is entitled to family reunification in Belgium but the Belgian national must prove that he has stable, sufficient and regular income and that he can provide for a decent housing (art. 40ter of the Law on entry in the country and residence).</p> <p>Before 1980, family reunification for spouses was allowed on the basis of bilateral conventions.</p>		<p>Explanations and nuances: Between 2000 and 2007, registered partners had no formal right to family reunification, but they could nevertheless obtain such reunification on the basis of the Ministerial circular of 20 September 1997 if they could prove that they were in a "stable relationship" (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 More or less together, Paris, INED, 2005, pp. 58-59).</p> <p>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Accordingly, since 2007, registered partners are entitled to family reunification in Belgium.</p> <p>Nevertheless, the Law on entry in the country and residence makes a difference between partnerships considered equivalent to marriage and partnerships considered not equivalent to marriage.</p> <p>The foreign partner who is in a registered partnership considered equivalent to marriage with a national is entitled to family reunification in the same conditions as if they were married.</p> <p>However, according to the Royal Decree of 7 May 2008, the Belgian registered partnership (known as "legal cohabitation") is not considered equivalent to marriage. As a consequence, legal cohabitants have (unlike spouses or partners whose foreign partnership is considered equivalent to marriage) to demonstrate that they are in a stable and duly established relationship.</p> <p>This difference has been considered acceptable by the Belgian Constitutional Court (C. const., 43/2015, 26 March 2015).</p>		<p>Explanations and nuances: In 1997, a ministerial circular authorized Belgian nationals to be joined in Belgium by a person with whom they had a de facto relationship (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 More or less together, Paris, INED, 2005, pp. 58-59).</p> <p>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Under the new legislation, family reunification is not allowed for de facto partners (but is allowed for registered partners).</p> <p>The 1997 circular was formally repealed by a circular dated 17 June 2009.</p>	

Jurisdiction: **Belgium**

Source: **G. Willems, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).**

Section: **4 - Migration**

Question: **4.02 - Partner of national citizen (foreign status)**

When one partner is a residing national citizen, while the other partner is a foreigner from another continent, and this couple married/registered in the country of the foreigner, will the foreign partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1980	2015 Yes 2003	2015 Yes, but 2007	2015 Yes, but 2007	X	X
Yes, but 0000	Yes, but 2001	Yes, but 1998	Yes, but 1997	X	X
	N/A 0000	N/A 0000	No 1989	X	X
			N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 40ter juncto art. 40 bis §2(2) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p>		<p>References to legal sources: Art. 40ter juncto art. 40 bis(2) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Royal Decree of 7 May 2008 implementing some of the provisions of the law on entry in the country and residence (Moniteur belge, 13 May 2008, p. 25090).</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The foreign spouse is entitled to family reunification in Belgium but the Belgian national must prove that he has stable, sufficient and regular income and that he can provide for a decent housing (art. 40ter Law on entry in the country and residence).</p> <p>Between 2001 and 2003, Belgium did not allow same-sex marriage. In any case, during this period same-sex spouses could obtain family reunification on the basis of the Ministerial circular of 20 September 1997 if they could prove that they were in a "stable relationship" (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: More or less together, Paris, INED, 2005, pp. 58-59).</p> <p>Before 1980, family reunification for spouses was allowed on the basis of bilateral conventions.</p>		<p>Explanations and nuances: Between 1997 and 2007, partners in foreign registered partnerships had no formal right to family reunification, but they could nevertheless obtain such reunification on the basis of the Ministerial circular of 20 September 1997 if they could prove that they were in a "stable relationship" (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 More or less together, Paris, INED, 2005, pp. 58-59).</p> <p>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Accordingly, since 2007, registered partners are entitled to family reunification in Belgium.</p> <p>The Law on entry in the country and residence makes a difference between partnerships considered equivalent to marriage and partnerships considered not equivalent to marriage.</p> <p>The foreign partner who is in a registered partnership considered equivalent to marriage with a national is entitled to family reunification in the same conditions as if they were married. According to the Royal Decree of 7 May 2008, partnerships from Danmark, Germany, Finland, Iceland, Norway, United Kingdom and Sweden should be considered as equivalent to marriage for the purpose of the law.</p> <p>The foreign partner who is in a registered partnership considered non-equivalent to marriage with a national is entitled to family reunification but he must demonstrate that they are in a stable and duly established relationship (art. 40ter Law on entry in the country and residence).</p>			

Jurisdiction: **Belgium**

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Section: **4 - Migration**

Question: **4.03 - Partner of (non-EU) foreigner**

When both partners are foreigners from another continent, and one of them is residing in the country, will the other partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1980	2015 Yes 2003	2015 Yes, but 2007	2015 Yes, but 2007	2015 No 2009	2015 No 2009
Yes, but 0000	N/A 0000	Yes, but 2000	Yes, but 2000	Yes, but 1997	Yes, but 1997
		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: Art. 10 § 1(4) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>See also: Law of 2 June 2013 on the fight against sham marriage and sham legal cohabitation (Moniteur belge, 23 September 2013, p. 67119).</p>		<p>References to legal sources: Art. 10 § 1(4) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Royal Decree of 7 May 2008 implementing some of the provisions of the law on entry in the country and residence (Moniteur belge, 13 May 2008, p. 25090).</p> <p>See also: Law of 2 June 2013 on the fight against sham marriage and sham legal cohabitation (Moniteur belge, 23 September 2013, p. 67119).</p>		<p>References to legal sources: Art. 10 § 1(4) of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752 and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Ministerial circular of 17 June 2009 containing provisions concerning family reunification (Moniteur belge, 2 July 2009, p. 45382).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The spouse is entitled to family reunification in Belgium but the foreigner residing legally in Belgium must prove that he has stable, sufficient and regular income and that he can provide for a decent housing (art. 10 § 2 of the law on entry in the country and residence).</p> <p>Before 1980, family reunification for spouses was allowed on the basis of bilateral conventions.</p>		<p>Explanations and nuances: Between 2000 and 2007, registered partners had no formal right to family reunification, but they could nevertheless obtain such reunification on the basis of the Ministerial circular of 20 September 1997 if they could prove that they were in a "stable relationship" (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 More or less together, Paris, INED, 2005, pp. 58-59).</p> <p>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Accordingly, since 2007, registered partners are entitled to family reunification in Belgium.</p> <p>The Law on entry in the country and residence makes a difference between partnerships considered equivalent to marriage and partnerships considered not equivalent to marriage.</p> <p>The foreign partner who is in a registered partnership considered equivalent to marriage with a foreigner residing legally in Belgium is entitled to family reunification in the same conditions as if they were married (see the "marriage" column").</p> <p>However, according to the Royal Decree of 7 May 2008, the Belgian registered partnership (known as "legal cohabitation") is not considered equivalent to marriage.</p> <p>As a consequence (law of 8 July 2011), legal cohabitants have (unlike spouses or partners whose partnership is considered equivalent to marriage) to demonstrate that they are in a stable and duly established relationship.</p> <p>This difference has been considered acceptable by the Belgian Constitutional Court (C. const., 43/2015, 26 March 2015).</p>		<p>Explanations and nuances: In 1997, a ministerial circular authorized Belgian nationals to be joined in Belgium by a person with whom they had a de facto relationship (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", 2005, pp. 58-59).</p> <p>However, in 2007, the law of 25 April 2007 (Moniteur belge, 10 May 2007, p. 25752) transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Under the new legislation, family reunification is not allowed for de facto partners (but is allowed for registered partners).</p> <p>The 1997 circular was formally repealed by a circular dated 17 June 2009.</p>	

Jurisdiction: **Belgium**

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Section: **4 - Migration**

Question: **4.04 - Partner of EU citizen (foreign status)**

When one partner is a foreign EU citizen who is residing in the country, while the other is a foreigner from another continent, and this couple married/registered/cohabited in the country of the EU citizen, will the non-EU partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1980	2015 Yes 2003	2015 Yes, but 2007	2015 Yes, but 2007	2015 No 2009	2015 No 2009
Yes, but 0000	Yes, but 2001	Yes, but 1998	Yes, but 1997	Yes, but 1997	Yes, but 1997
	N/A 0000	N/A 0000	No 1989	No 0000	No 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. 40bis of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752, and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p>		<p>References to legal sources: Art. 40bis of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752, and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Royal Decree of 7 May 2008 implementing some of the provisions of the law on entry in the country and residence (Moniteur belge, 13 May 2008, p. 25090).</p>		<p>References to legal sources: Art. 40bis of the Law of 15 December 1980 on entry in the country and residence (as amended by law of 25 April 2007, Moniteur belge, 10 May 2007, p. 25752, and by law of 8 July 2011 on family reunification, Moniteur belge, 12 September 2011, p. 58915).</p> <p>Ministerial circular of 20 September 1997 on granting of residency permit on the basis of cohabitation in the context of an enduring relationship (Moniteur belge, 14 November 1997, p. 30333).</p> <p>Ministerial circular of 17 June 2009 containing provisions concerning family reunification (Moniteur belge, 2 July 2009, p. 45382).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The spouse is entitled to family reunification in Belgium.</p> <p>EU citizens who want to be joined by their spouse in Belgium benefit from a preferential treatment: the income conditions are more flexible and housing requirements do not apply (art. 40bis of the Law on entry in the country and residence).</p> <p>See: S. Saroléa, "Le regroupement familial suite à la réforme de 2011", in <i>Droit des étrangers</i>, Bruxelles, Bruylant, 2012, pp. 115.</p> <p>Between 2001 and 2003, Belgium did not allow same-sex marriage. In any case, during this period same-sex spouses could obtain family reunification on the basis of the Ministerial circular of 20 September 1997 if they could prove that they were in a "stable relationship" (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>Before 1980, family reunification for spouses was allowed on the basis of bilateral conventions.</p>		<p>Explanations and nuances: Between 1997 and 2007, partners in foreign registered partnerships had no formal right to family reunification, but they could nevertheless obtain such reunification on the basis of the Ministerial circular of 20 September 1997 (see the the column about de facto partners and 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>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Accordingly, since 2007, registered partners are entitled to family reunification in Belgium.</p> <p>The Law on entry in the country and residence makes a difference between partnerships considered equivalent to marriage and partnerships considered not equivalent to marriage.</p> <p>The foreign partner who is in a registered partnership considered equivalent to marriage with a EU citizen is entitled to family reunification in the same conditions as if they were married. According to the Royal Decree of 7 May 2008, partnerships from Danmark, Germany, Finland, Iceland, Norway, United Kingdom and Sweden should be considered as equivalent to marriage for the purpose of the law.</p> <p>The foreign partner who is in a registered partnership considered non-equivalent to marriage with a EU citizen is entitled to family reunification but he must demonstrate that they are in a stable and duly established relationship (art. 40bis Law on entry in the country and residence).</p>		<p>Explanations and nuances: In 1997, a ministerial circular authorized foreigners residing legally in Belgium to be joined in Belgium by a person with whom they had a de facto relationship (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>In 2007, the law of 25 April 2007 transposed the EU Directive 2004/38/CE of 29 April 2004 and amended the law on entry in the country and residence. Under the new legislation, family reunification is not allowed for de facto partners (but is allowed for registered partners).</p> <p>The 1997 circular was formally repealed by a circular dated 17 June 2009.</p>	

Jurisdiction: **Belgium**

Source: **G. Willems, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).**

Section: **4 - Migration**

Question: **4.05 - Foreign status as impediment to marry**

When the couple got married or registered abroad, will this relationship then be recognised as an impediment to marry someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2003	2015 Yes, but 2004	2015 Yes, but 2004	X	X
	No 2001	? 1998	? 1989	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 27 and 46 Private international law Code (Moniteur belge, 27 July 2004, p. 57344). Art. 147 of the Civil Code.		References to legal sources: Art. 27, 46, 58 and 60 Private international law Code (Moniteur belge, 27 July 2004, p. 57344). Art. 1476 of the Civil code.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A foreign marriage is recognised in Belgium without the need for a legal procedure (art. 27 Private international law Code) if the provisions of the applicable law are fulfilled (al. 1) and if the necessary documentation is provided and legalised (al. 2).</p> <p>In Belgian private international law, the conditions to marry depend on the national law of future spouses (art. 46 Private international law Code).</p> <p>In Belgium, polygamic marriage is forbidden (art. 147 of the Civil code).</p> <p>The existence of a foreign marriage is an impediment to marry, even if the national law of the prospective spouses allows polygamy. Indeed, polygamy contravenes the Belgian international public order (art. 21 of the Private international law Code).</p> <p>See: F. Rigaux et M. Fallon, <i>Droit international privé</i>, Bruxelles, Larcier, 2005, p. 520.</p> <p>Before 2003, foreign same-sex marriages were considered to be in conflict with public order. Accordingly, such a marriage could not have been recognised as an impediment to marry someone else. However, same-sex marriage was allowed only in the Netherlands.</p>		<p>Explanations and nuances: A foreign partnership is recognised in Belgium without the need for a legal procedure (art. 27 Private international law Code) if the provisions of the applicable law are fulfilled (al. 1) and if the necessary documentation is provided and legalised (al. 2).</p> <p>A difference is made between partnerships considered equivalent to marriage and partnerships considered as simple common life relationships ("relation de vie commune")(art. 58 Private international law Code).</p> <p>In Belgian private international law, the conditions to marry depend on the national law of future spouses (art. 46 of the Private international law Code).</p> <p>If the partnership is considered equivalent to marriage, then it is an impediment to marriage because of the prohibition of polygamy (see the "marriage" column).</p> <p>If the partnership is considered as a simple "relation de vie commune", then the existence or absence of an impediment to marriage will depend on the content of the national law of the prospective spouses. In Belgium, for instance, it is possible to marry even if you are into a registered partnership. This partnership will be automatically dissolved by marriage (art. 1476 Civil code).</p> <p>If there is a conflict between the respective national laws of prospective spouses, the possibility to marry will depend on the content of the law of the country where the partnership was registered (article 60 of the Private international law Code).</p> <p>See: P. Wauthelet, "Partenariats, cohabitation légale et autres relations de vie commune", in <i>Relations familiales internationales - l'actualité vue par la pratique</i>, Limal, Anthemis, 2010, pp. 113-124.</p>			

Jurisdiction: **Belgium**

Source: **G. Willems**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.06 - Foreign status and inheritance**

When the couple got married or registered abroad, will this relationship then be recognised as regards inheritance in the absence of a testament?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2003	2015 Yes 2007	2015 Yes 2007	X	X
	No 2001	Yes, but 2004	Yes, but 2004	X	X
	N/A 0000	? 1998	? 1989	X	X
		N/A 0000	N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 27 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (in force since 17 August 2015).</p> <p>Art. 745bis Civil Code.</p>		<p>References to legal sources: Art. 27 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (in force since 17 August 2015).</p> <p>Art. 745octies Civil Code.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A foreign marriage is recognised in Belgium without the need for a legal procedure (art. 27 Private international law Code) if the provisions of the applicable law are fulfilled (al. 1) and if the necessary documentation is provided and legalised (al. 2).</p> <p>According to article 21 of the European regulation n° 650/12, successions are governed by the law of the State of the last habitual residence of the deceased (before July 2015, article 78 of the Private international law Code provided the same rule).</p> <p>In Belgian civil law, the surviving spouses benefits from ab intestat inheritance rights (art. 745bis Civil Code).</p> <p>If the couple married abroad, the surviving spouse will be recognised the ab intestat inheritance rights provided by art. 745bis Civil Code.</p> <p>Before 2003, foreign same-sex marriages were considered to be in conflict with public order. Accordingly, such a marriage could not have been recognised. However, same-sex marriage was allowed only in the Netherlands.</p>		<p>Explanations and nuances: A foreign partnership is recognised in Belgium without the need for a legal procedure (art. 27 Private international law Code) if the provisions of the applicable law are fulfilled (al. 1) and if the necessary documentation is provided and legalised (al. 2).</p> <p>A difference is made between partnerships considered equivalent to marriage and partnerships considered as simple common life relationships ("relation de vie commune")(art. 58 Private international law Code).</p> <p>According to article 21 of the European regulation n° 650/12, successions are governed by the law of the State of the last habitual residence of the deceased (before July 2015, article 78 of the Private international law Code provided the same rule).</p> <p>If the partnership is considered equivalent to marriage, then the surviving partner will be recognised the same inheritance rights as a spouse (see the "marriage" column).</p> <p>If the partnership is considered as a simple "relation de vie commune", then the surviving partner will be granted the same ab intestate inheritance rights as a legal cohabitant (art. 745 octies Civil Code). In this respect, it must be stressed that inheritance rights for legal cohabitant only exist in Belgium since 2007 (see 6.03).</p>			

Jurisdiction: **Belgium**

Source: **G. Willems**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.07 - Citizenship**

Does a relationship of this type make it easier for a foreign partner to obtain citizenship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1984	2015 Yes 2003	2015 No 2000	2015 No 2000	2015 No 0000	2015 No 0000
Yes, but 0000	N/A 0000	N/A 0000	N/A 0000		
References to legal sources: Art. 12bis of the Nationality Code of 28 June 1984 (as amended by law of 4 December 2012, Moniteur belge, 14 December 2012, p. 79998).		References to legal sources: Art. 12bis of the Nationality Code of 28 June 1984 (as amended by law of 4 December 2012, Moniteur belge, 14 December 2012, p. 79998).		References to legal sources: Art. 12bis of the Nationality Code of 28 June 1984 (as amended by law of 4 December 2012, Moniteur belge, 14 December 2012, p. 79998).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Under the Belgian Nationality Code, foreigners who are married with a Belgian national and who have been living with him or her for at least three years are allowed to make a declaration of nationality. They are exempted from some economic requirements imposed on other foreigners who want to acquire Belgian nationality (art. 12bis § 1(3)).</p> <p>Before 1984, the consolidated laws on nationality of 14 December 1932 (Moniteur belge, 17 December 1932, p. 6782) granted automatically the Belgian nationality to the wife of a Belgian man. However, this did not apply to the husband of a Belgian woman (art. 4 and 15) (C.-L. Closset, <i>Traité de la nationalité en droit belge</i>, Bruxelles, Larcier, 2004, p. 338 et seq.).</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Belgium**

Source: **G. Willems**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.08 - Recognition of joint adoption**

When the partners have jointly adopted a child while residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1987	2015 Yes 2006	2015 Yes 2005	2015 Yes 2006	2015 Yes 2005	2015 Yes 2006
No 0000	No 2003	Doubt 2000	No 2000	Doubt 0000	No 0000
	N/A 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. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>		<p>References to legal sources: Art. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>		<p>References to legal sources: Art. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements apply (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>In Belgium, joint adoption by homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>		<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements apply (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>In Belgium, joint adoption by heterosexual registered partners was opened by law of 24 April 2003 reforming adoption which entered into force on 1 September 2005.</p> <p>Before 2005, it is thus doubtful that a foreign adoption by heterosexual registered partners could have been recognised in the Belgian jurisdiction.</p> <p>In Belgium, joint adoption by homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>		<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements apply (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>In Belgium, joint adoption by heterosexual de facto partners was opened by law Law of 24 April 2003 reforming adoption which entered into force on 1 September 2005.</p> <p>Before 2005, it is doubtful that a foreign adoption by heterosexual de facto partners could have been recognised in the Belgian jurisdiction.</p> <p>In Belgium, joint adoption by homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006 allowing adoption by same-sex persons.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>	

Jurisdiction: **Belgium**

Source: **G. Willems, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.09 - Recognition of second-parent adoption**

When one partner has become the second parent of a child of the other partner, by way of adoption while the partners were residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2005	2015 Yes 2006	2015 Yes 2005	2015 Yes 2006	2015 Yes 2005	2015 Yes 2006
Yes, but 1987	No 2003	Doubt 2000	No 2000	Doubt 0000	No 0000
Yes 1969	N/A 0000	N/A 0000	N/A 0000		
? 0000					

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>		<p>References to legal sources: Art. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>		<p>References to legal sources: Art. 72 of the Private international law Code (Moniteur belge, 27 July 2004, p. 57344).</p> <p>Art. 364-1 to 367-3 Civil Code (as amended by Law of 24 April 2003 reforming adoption, Moniteur belge, 16 May 2003, p. 26956).</p> <p>Law of 18 May 2006 modifying the Civil Code in order to allow adoption by same-sex couples, Moniteur belge, 20 June 2006, p. 31128.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements apply (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>Between 1987 and the entry into force of the law reforming adoption in 2005, second parent adoption by the parent's spouse was not organized by Belgian law. According to former article 370 of the Civil Code, a full adoption severed the legal link existing between the adopted child and the originary parent.</p> <p>However, in 1997, the Constitutional Court ruled that, taking into account the intent of the legislature, such links should not be suppressed when the child is adopted by his or her parent's spouse (C. const., 67/97, 6 November 1997).</p> <p>The Constitutional Court gave much weight to the fact that between 1969 and 1987, the Belgian Law organised "legitimation by adoption" allowing a married person to adopt his or her spouses's child without severing the existing ties.</p> <p>It is thus likely that, even before 2005, a foreign second-parent adoption would have been recognised in the Belgian jurisdiction.</p> <p>In Belgium, second-parent adoption in homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>		<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements apply (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>Before 2005 and the entry into force of the law reforming adoption, second parent adoption was not organized by Belgian law.</p> <p>However, "there [was] some case law [suggesting] that second parent adoption by a non-married different-sex partner should sometimes be possible" (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: More or less together, Paris, INED, 2005, p. 52).</p> <p>It is thus doubtful that before 2005 a foreign second-parent adoption could have been recognised in the Belgian jurisdiction.</p> <p>In Belgium, second-parent adoption in homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>		<p>Explanations and nuances: In Belgium, a foreign adoption is recognized automatically if it is certified by the national competent authority under the Hague Convention of 29 May 1993 (art. 364-1 Civil Code). For adoptions that fall outside the scope of the Convention, additional requirements applies (art. 365-1 Civil Code). In both cases, recognition may be refused on the basis of Belgian international public order (art. 21 Private international law Code juncto art. 346-1, al. 1 and art. 365-2 Civil Code).</p> <p>Before 2005 and the entry into force of the law reforming adoption, second parent adoption was not organized by Belgian law.</p> <p>However, "there [was] some case law [suggesting] that second parent adoption by a non-married different-sex partner should sometimes be possible" (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: More or less together, Paris, INED, 2005, p. 52).</p> <p>It is thus doubtful that before 2005 a foreign second-parent adoption could have been recognized in the Belgian jurisdiction.</p> <p>In Belgium, second-parent adoption in homosexual couples (married, registered or de facto partners) was opened by law of 18 May 2006.</p> <p>Before 2006, a foreign adoption by a homosexual couple would have been considered to be in conflict with the Belgian public order.</p>	