

## Death and legal family formats in Bulgaria

by Adela Katchaounova <sup>1</sup>

*The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*

Edited by Kees Waaldijk,<sup>2</sup> Marie Digoix,<sup>3</sup> Natalie Nikolina,<sup>2</sup> Giuseppe Zago,<sup>2</sup> Daniel Damonzé,<sup>2</sup> Arianna Caporali,<sup>3</sup> Kamel Nait Abdellah <sup>3</sup>

Published by INED, Paris, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu)

Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 6 – Death)

© 2017 Adela Katchaounova

<sup>1</sup> Adela Katchaounova (legal researcher and attorney-at-law with the Bulgarian Helsinki Committee, [www.bghelsinki.org](http://www.bghelsinki.org)) is grateful for the research assistance provided by Kaloyan Stanev (researcher with the Bulgarian Helsinki Committee), and also for the useful comments that Daniela Furtunova (lawyer at the Research and Monitoring Programme of the Bulgarian Helsinki Committee) made on an earlier

version of the answers in this section of the database.

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



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



**Recommended citation:**

A. Katchaounova, 'Death and legal family formats in Bulgaria', in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu) (question 6.x).

## Acknowledgment

The research leading to these results has received funding from the European Union's Seventh Framework Programme (FP7/2007-2013) under grant agreement no. 320116 for the research project FamiliesAndSocieties, [www.familiesandsocieties.eu](http://www.familiesandsocieties.eu).



# FamiliesAndSocieties

## Disclaimer

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

## The six sections of the questionnaire

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

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

## Papers and an interactive database

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

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

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

## About the questionnaire

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

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

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

## About the answers

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

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

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

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

### The six papers about Bulgaria

The answers concerning Bulgaria can be found in the [interactive database](#) and in the following six papers (all of which are published in open access in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu)):

#### **Formalisation of legal family formats in Bulgaria by Daniela Furtunova (Section 1)**

#### **Income, troubles and legal family formats in Bulgaria by Daniela Furtunova (Section 2)**

#### **Parenting and legal family formats in Bulgaria by Daniela Furtunova (Section 3)**

#### **Migration and legal family formats in Bulgaria by Adela Katchaounova (Section 4)**

#### **Splitting up and legal family formats in Bulgaria by Adela Katchaounova (Section 5)**

#### **Death and legal family formats in Bulgaria by Adela Katchaounova (Section 6)**

So this paper is based on **Section 6 (Death)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

#### **6.1 Tenancy continuation**

#### **6.2 Property at death**

#### **6.3 Inheritance**

#### **6.4 Inheritance tax**

#### **6.5 Survivor’s pension**

#### **6.6 Wrongful death**

#### **6.7 General background regarding death**

In the following pages of this paper, first the answer to question 6.7 is presented, followed by the answers to questions 6.1 to 6.6.

**6.07 - General background regarding death (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 death, then please do so here.

–

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).**

Section: **6 - Death**

Question: **6.01 - Tenancy continuation**

When the partner who holds the rental contract dies, does the other partner then have a right to continue to rent the home?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<b>2015 No 0000</b>	<b>2015 N/A 0000</b>	<b>2015 N/A 0000</b>	<b>2015 N/A 0000</b>	<b>2015 No 0000</b>	<b>2015 No 0000</b>
<b>References to legal sources:</b>		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> No such right is codified.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> No such right is codified.	

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).**

Section: **6 - Death**

Question: **6.02 - Property at death**

When one partner dies, do statutory rules consider as joint property any possessions acquired by either of them after they started this type of relationship? (In other words: would the surviving partner be deemed to own 50% of these possessions, while the other 50% are subject to relevant rules of inheritance law?)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
<b>References to legal sources:</b> Art. 9 (2) and (3), Inheritance Act (Закон за наследството) (1949).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> Art. 38 (2) of the Family Code explicitly states that marital contracts may not include any clauses related to inheritance regime. In cases of death statutory rules apply only.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).**

Section: **6 - Death**

Question: **6.03 - Inheritance**

When one partner dies without testament, is the other partner then an inheritor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
<b>References to legal sources:</b> Art. 9, Inheritance Act (Закон за наследството) (1949).		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 9, Inheritance Act (Закон за наследството) (1949).	
<b>Explanations and nuances:</b> The surviving spouse is considered inheritor, thus, reserving this right to different-sex married couples only.  The spouse receives a part of the inheritance of the deceased husband/ wife equal to the part of each child.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> The automatic right to inheritance is reserved only to spouses.	

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).**

Section: **6 - Death**

Question: **6.04 - Inheritance tax**

Is the surviving partner exempted from paying inheritance tax (or required to pay less than a mere friend would have to pay)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2005	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
Yes, but 0000					
<p><b>References to legal sources:</b> Art. 31 (2), Local Taxes and Fees Act (Закон за местните данъци и такси) (1998, amended in 2005).</p> <p>Art. 38(3) in conjunction with Art. 38(1)(3, 4 and 5), Local Taxes and Fees Act (Закон за местните данъци и такси) (1998).</p> <p>Art. 26(b), Local Taxes and Fees Act (Закон за местните данъци и такси) (1952) (repealed).</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b> Art. 31 (2), Local Taxes and Fees Act (Закон за местните данъци и такси) (1998, amended in 2005).</p> <p>Art. 38(3) in conjunction with Art. 38(1)(3, 4 and 5), Local Taxes and Fees Act (Закон за местните данъци и такси) (1998).</p> <p>Art. 26(b), Local Taxes and Fees Act (Закон за местните данъци и такси) (1952) (repealed).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            The living surviving spouse does not pay inheritance tax.</p> <p>Before the law was amended in 2005, the exemption according to the Local Taxes and Fees Act (1998) was applicable only when the inheritance from the deceased spouse consisted of ordinary household belongings; small agricultural instruments; and/or libraries and musical instruments.</p> <p>The repealed 1952 Local Taxes and Fees Act stipulated exemption of inheritance tax for the living spouse for an inheritance up to specific sum.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            Exemption from inheritance tax is reserved to spouses and direct line descendants.</p>	

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria".** In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.05 - Survivor's pension**

When one partner dies while being employed, is the surviving partner then normally entitled to a survivor's pension?

(For example on the basis of statutory law, and/or on the basis of a collective labour agreement or arrangements of the employer.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1999	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
Yes 0000					
<b>References to legal sources:</b> Art. 80 (2), Social Security Code (Кодекс за социално осигуряване) (2000).  Pensions Act (repealed) (1957-1999).		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 80 (2), Social Security Code (Кодекс за социално осигуряване) (2000).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      The living spouse is entitled to an inheritance pension which sum is being calculated depending on the number of the inheritors.</p> <p>According to the repealed Pensions Act (art. 31) the surviving spouse was entitled to a certain amount of an inheritance pension based on certain criteria.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      Inheritance pension is limited only to the living spouse, thus, excludes same-sex or different-sex cohabiting couples.</p>	

Jurisdiction: **Bulgaria**

Source: **A. Katchaunova, "Death and legal family formats in Bulgaria". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, [www.LawsAndFamilies.eu](http://www.LawsAndFamilies.eu), [LawsAndFamilies-BG-Section6.pdf](#) (please use this full citation when citing any information from this table).**

Section: **6 - Death**

Question: **6.06 - Wrongful death**

In case of wrongful death of one partner, is the other partner then entitled to compensation from the wrongdoer?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2007	2015 Yes 2007
				No, but 0000	No, but 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 84 (1), Criminal Procedure Code (Наказателно-процесуален кодекс) (2006).</p> <p>Art. 60 (1), Criminal Procedure Code (Наказателно-процесуален кодекс) (1974) (repealed) Civil Procedure Code (Граждански процесуален кодекс) (2008) Civil Procedure Code (Граждански процесуален кодекс) (1952) (repealed).</p> <p>Art. 3 (2), Crime Victim Assistance and Financial Compensation Act (Закон за подпомагане и компенсация на пострадалите от престъпление) (2007).</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b>                      Art. 84 (1), Criminal Procedure Code (Наказателно-процесуален кодекс) (2006).</p> <p>Art. 60 (1), Criminal Procedure Code (Наказателно-процесуален кодекс) (1974) (repealed).</p> <p>Civil Procedure Code (Граждански процесуален кодекс) (2008).</p> <p>Civil Procedure Code (Граждански процесуален кодекс) (1952) (repealed).</p> <p>Art. 3 (2), Crime Victim Assistance and Financial Compensation Act (Закон за подпомагане и компенсация на пострадалите от престъпление) (2007).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            There are several ways in which the surviving spouse can seek compensation:            1) The surviving spouse being an inheritor of her/his deceased spouse is entitled to seek a compensation through a “civil action” brought up in the criminal proceedings (граждански иск) under the Criminal Procedure Code.            2) The Court has the right to dismiss this civil action, in which case the surviving spouse has the option to seek compensation through an action under the Civil Procedure Code.            3) If the surviving spouse had not received compensation in any other way, she/ he is entitled to a compensation under the Crime Victim Assistance and Financial Compensation Act.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            As under the Criminal Procedure Code the successor of the inheritor has the right to seek compensation through a civil action, it is highly unlikely that the cohabiting partner would be deemed as a holder of this right.             Cohabiting partners, however, explicitly have a right to compensation under the Crime Victim Assistance and Financial Compensation Act.</p>	