

Parenting and legal family formats in the Czech Republic

by Lucian Luca Otáhal ¹

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 3 – Parenting)

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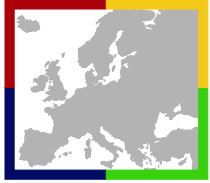
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FamiliesAndSocieties

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 the Czech Republic

The answers concerning the Czech Republic 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 the Czech Republic by Lucian Luca Otáhal (Section 1)

Income, troubles and legal family formats in the Czech Republic by Ondrej Plesmid (Section 2)

Parenting and legal family formats in the Czech Republic by Lucian Luca Otáhal (Section 3)

Migration and legal family formats in the Czech Republic by Ondrej Plesmid (Section 4)

Splitting up and legal family formats in the Czech Republic by Lucian Luca Otáhal (Section 5)

Death and legal family formats in the Czech Republic by Ondrej Plesmid (Section 6)

So this paper is based on **Section 3 (Parenting)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

3.1 Assisted insemination

3.2 IVF

3.3 Surrogacy

3.4 Legal parenthood

3.5 Parental authority

3.6 Parental leave for both parents

3.7 Parental leave for partners

3.8 Grandparents

3.9 Second-parent adoption

3.10 Joint adoption

3.11 Individual adoption

3.12 General background regarding parenting

3.13 Single parenting

3.14 Multiple parenting

In the following pages of this paper, first the answers to questions 3.12, 3.13 and 3.14 are presented, followed by answers to questions 3.1 to 3.11.

3.12 - General background regarding parenting (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 parenting, then please do so here.

3.13 - Single parenting (Open question)

If there are any developments in legal policy and case law regarding the possibilities of an individual person without a partner to have a child through adoption, medically assisted insemination, and/or IVF, you could indicate that here.

3.14 - Multiple parenting (Open question)

If there are any developments in legal policy or case law regarding possibilities for a child to have more than two parents, you could indicate that here.

A legislative proposal for an amendment to the Registered Partnership Law would make step-parent adoption possible for registered partners. The proposal was introduced by a group of deputies in September 2014.

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Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.01 - Assisted insemination**

Is it legally possible in this type of relationship to become pregnant through medically assisted insemination using sperm of a donor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2012	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 Yes 2012	2015 No 0000
Yes 0000			N/A 0000	Yes 0000	
<p>References to legal sources: Art. 6 of the Law on Specific Healthcare Services (zákon o specifických zdravotních službách, No. 373/2011 § 27d on Public Healthcare (zákon o péči o zdraví lidu), No. 20/1966.</p>		<p>References to legal sources: Art. 6 of the Law on Specific Healthcare Services (zákon o specifických zdravotních službách).</p>		<p>References to legal sources: Art. 6 of the Law on Specific Healthcare Services (zákon o specifických zdravotních službách) § 27d on Public Healthcare, (zákon o péči o zdraví lidu), No. 20/1966.</p>	
<p>Explanations and nuances: The above mentioned law makes it possible to undergo medically assisted procreation for an "infertile couple", composed of a man and a woman (they do not have to be married).</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: The above mentioned law makes it possible to undergo medically assisted procreation for an "infertile couple", composed of a man and a woman (they do not have to be married).</p>	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.02 - IVF**

Is it legally possible in this type of relationship to become pregnant through in vitro fertilisation (IVF) using donated egg or sperm?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2012	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 Yes 2012	2015 No 0000
Yes 0000			N/A 0000	Yes 0000	
References to legal sources:		References to legal sources:		References to legal sources:	
Explanations and nuances: See question 3.01.		Explanations and nuances: See question 3.01.		Explanations and nuances: See question 3.01.	

Jurisdiction: **Czech Republic**

Source: **L.L. Otáhal**, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.03 - Surrogacy**

Is it legally possible for both partners in this type of relationship to become the legal parents of a child through the help of a surrogate mother in the country?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Doubt 0000	2015 N/A 0000	2015 N/A 0000	2015 Doubt 2006	2015 Doubt 0000	2015 Doubt 0000
			N/A 0000		
References to legal sources:		References to legal sources:		References to legal sources:	
Explanations and nuances: Surrogacy is not regulated in the Czech law. In practice, however, clinics offer medical services that include surrogacy, calling it "medical treatment of infertility with the help of surrogate mother".		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.04 - Legal parenthood**

When one partner gives birth, will (or can) the other partner then also become legal parent of the child, without having to go through adoption? (For example automatically, or by way of recognition/acknowledgement.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 Yes 2014	2015 No 0000
Yes 0000			N/A 0000	Yes 0000	
References to legal sources: Art. 776/1 of the Civil Code (občanský zákoník). Previously: § 51 of the Family Law (No. 94/1963).		References to legal sources:		References to legal sources: § 779 of the Civil Code (občanský zákoník, No. 89/2012). Previously: § 52 of the Family Law (No. 94/1963).	
Explanations and nuances: Different-sex marriage: the answer only applies in case the mother gives birth to a child. In marriage, the husband is automatically considered father of the child.		Explanations and nuances: No legal provision refers to automatic legal parenthood or to acknowledgment.		Explanations and nuances: Fatherhood can be acknowledged by a consensual proclamation of the father and the mother, made in front of the court or registry office.	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.05 - Parental authority**

Is joint parental authority/responsibility possible for the couple, while only one of the partners is the legal parent of the child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 2014	2015 N/A 0000	2015 N/A 0000	2015 No, but 2006	2015 No, but 2014	2015 No, but 2014
No, but 0000			N/A 0000	No 0000	No 0000
References to legal sources: Art. 885 of the Civil Code. Previously: § 33 of the Family Code (No. 94/1963).		References to legal sources: Art. 885 of the Civil Code. Art. 13/3 of the Registered Partnership Act (zákon o registrovaném partnerství).		References to legal sources: Art. 885 of the Civil Code. Previously: § 33 of the Family Code (No. 94/1963).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Parental responsibility is reserved to "legal" parents. However, husband/partner/cohabiting partner of the parent is obliged to take care of the child alongside with the legal parent, if the couple lives together in a family household.</p> <p>Previously: only the spouse of the parent was obliged to care for the child of the other spouse, provided they live in a family household.</p>		<p>Explanations and nuances: Parental responsibility is reserved to "legal" parents. However, husband/partner/cohabiting partner of the parent are obliged to take care of the child alongside with the legal parent, if the couple lives together in a family household.</p>		<p>Explanations and nuances: Parental responsibility is reserved for "legal" parents. However, husband/partner/cohabiting partner of the parent is obliged to take care of the child alongside with the legal parent, if the couple lives together in a family household.</p> <p>Previously: only the spouse of the parent was obliged to care for the child of the other spouse, provided they live in a family household.</p>	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.06 - Parental leave for both parents**

When both partners are the legal parents of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2006	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2006	2015 N/A 0000
Yes 0000				Yes 0000	
References to legal sources: Art. 196 of the Labour Code, No. 262/2006 (zákoník práce). Previously: § 158 of the Labour Code (No. 65/1965).		References to legal sources:		References to legal sources: Art. 196 of the Labour Code (zákoník práce). Previously: § 158 of the Labour Code (No. 65/1965).	
Explanations and nuances: Marital status does not play a role (the couple does not have to be married).		Explanations and nuances:		Explanations and nuances: Marital status does not play a role (the couple does not have to be married).	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.07 - Parental leave for partners**

When only one partner is the legal parent of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 No 0000	2015 No 0000
			N/A 0000		
References to legal sources: Art. 196 of the Labour Code (zákoník práce).		References to legal sources: Art. 196 of the Labour Code (zákoník práce).		References to legal sources: Art. 196 of the Labour Code (zákoník práce).	
Explanations and nuances: Only the legal parent of the child is entitled to parental leave.		Explanations and nuances: Only the legal parent of the child is entitled to parental leave.		Explanations and nuances: Only the legal parent of the child is entitled to parental leave.	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.08 - Grandparents**

Do grandparents have a statutory right to visit the children in this type of relationship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 2014	2015 N/A 0000	2015 N/A 0000	2015 Doubt 2006	2015 Yes, but 2014	2015 Doubt 2014
Yes, but 0000			N/A 0000	Yes, but 0000	Doubt 0000
References to legal sources: Art. 888 of the Civil Code. Previously: § 27 of the Civil Code (No. 40/1964).		References to legal sources: Art. 888 of the Civil Code.		References to legal sources: Art. 888 of the Civil Code. Previously: § 27 of the Civil Code (No. 40/1964).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Grandparents are not mentioned explicitly in legislation. This right stems from jurisprudence (decision of the Constitutional Court No. II.ÚS 568/06).</p> <p>Previously: the law included a possibility that visiting rights for grandparents are regulated by a court decision, if it is in the interests of the child.</p>		<p>Explanations and nuances: Grandparents are not mentioned explicitly in legislation. This right stems from jurisprudence (decision of the Constitutional Court No. II.ÚS 568/06).</p> <p>However, the issue of "social" grandparents is not yet clarified.</p>		<p>Explanations and nuances: Grandparents are not mentioned explicitly in legislation. This right stems from jurisprudence (decision of the Constitutional Court No. II.ÚS 568/06).</p> <p>However, the issue of "social" grandparents is not yet clarified.</p> <p>Previously: the law included a possibility that visiting rights for grandparents are regulated by a court decision, if it is in the interests of the child.</p>	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.09 - Second-parent adoption**

When only one partner is the legal parent of a child, does the other partner then have the possibility of becoming the child's second parent by way of adoption?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 No 0000	2015 No 0000
Yes 0000			N/A 0000		
References to legal sources: Art. 800 of the Civil Code (občanský zákoník). Previously: § 66 of the Family code (No. 94/1963).		References to legal sources: Art. 13/2 of the Registered Partnership Law (zákon o registrovaném partnerství).		References to legal sources: Art. 800 of the Civil Code (občanský zákoník).	
Explanations and nuances:		Explanations and nuances: This article explicitly forbids adoption of a child by persons living in registered partnership.		Explanations and nuances: Adoption by a person outside marriage is considered exceptional. In such a case, the previous parent of the child is deleted - the child then only has one parent.	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.10 - Joint adoption**

Can partners jointly adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 No 2014	2015 No 2014
Yes 0000			N/A 0000	No 0000	No 0000
References to legal sources:		References to legal sources:		References to legal sources:	
Explanations and nuances: See question 3.09.		Explanations and nuances: See question 3.09.		Explanations and nuances: See question 3.09. Joint adoption is possible only for spouses.	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Parenting and legal family formats in Czech Republic". 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-CZ-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.11 - Individual adoption**

Can one partner in this type of relationship individually adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	2015 Yes, but 2014	2015 Yes, but 2014
Yes 0000			N/A 0000	? 0000	? 0000
References to legal sources:		References to legal sources:		References to legal sources:	
Explanations and nuances: See question 3.09. Individual adoption is perceived as exceptional.		Explanations and nuances: See question 3.09. A person living in a registered partnership cannot adopt a child.		Explanations and nuances: See question 3.09. Individual adoption is perceived as exceptional. The previous law (Family Code, No. 94/1963) did not regulate individual adoption explicitly.	