

# Splitting up and legal family formats in the Czech Republic

by Lucian Luca Otáhal <sup>1</sup>

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

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Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 5 – Splitting up)

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



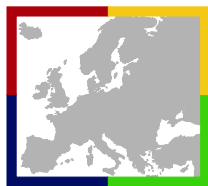
<sup>3</sup> Institut national d'études démographiques, Paris, France, [www.ined.fr](http://www.ined.fr).



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# FamiliesAndSocieties

## Disclaimer

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

## The six sections of the questionnaire

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

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

## Papers and an interactive database

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

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

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

## About the questionnaire

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

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

## About the answers

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

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

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

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

### The six papers about 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](http://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 5 (Splitting up)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 5.1 Dissolution by court**
- 5.2 Agreed administrative dissolution**
- 5.3 Unilateral administrative dissolution**
- 5.4 Agreed informal dissolution**
- 5.5 Unilateral informal dissolution**
- 5.6 Dissolution by marrying someone else**
- 5.7 Ending by conversion**
- 5.8 Ending by marrying each other**
- 5.9 Property at dissolution**
- 5.10 Alimony**
- 5.11 Parental authority**
- 5.12 General background regarding splitting up**

In the following pages of this paper, first the answer to question 5.12 is presented, followed by the answers to questions 5.1 to 5.11.

**5.12 - General background regarding splitting up (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 splitting up, then please do so here.

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Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.01 - Dissolution by court**

Can this type of relationship be ended by court decision?

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 Yes 2006	X	X
Yes 0000			N/A 0000	X	X
<b>References to legal sources:</b> Art. 755 of the Civil Code - Act No. 89/2012 (občanský zákoník).  Art. 24 of Act No. 94/1963 (Family Code, zákon o rodině) - abolished by the Civil Code.		<b>References to legal sources:</b> Art. 16 of Law No. 115/2006 - Registered Partnership Act (zákon o registrovaném partnerství).			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.02 - Agreed administrative dissolution**

Can this type of relationship be ended by mutual agreement in an administrative procedure?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	X	X
No 0000			N/A 0000	X	X
<b>References to legal sources:</b> Art. 757 of the Civil Code.  Art. 24a of the Family Code (abolished by the Civil Code).		<b>References to legal sources:</b> Art. 17 of the Registered Partnership Law.			
<b>Explanations and nuances:</b> This agreement must be acknowledged by the court.		<b>Explanations and nuances:</b>			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.03 - Unilateral administrative dissolution**

Can this type of relationship be ended by one partner unilaterally in an administrative procedure?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	X	X
No 0000			N/A 0000	X	X
<p><b>References to legal sources:</b> Art. 755 of the Civil Code, Act No. 89/2012 (občanský zákoník).</p> <p>Art. 24 of the Family Code, Act No. 94/1963 (zákon o rodině), abolished by the Civil Code.</p>		<p><b>References to legal sources:</b> Art. 16 of the Registered Partnership Act.</p>			
<p><b>Explanations and nuances:</b> The court will decide upon the proposal of one of the spouses.</p>		<p><b>Explanations and nuances:</b> The court will decide upon the proposal of one of the partners.</p>			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.04 - Agreed informal dissolution**

Can this type of relationship be ended by mutual agreement without involvement of any authority?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	X	X
No 0000			N/A 0000	X	X
<b>References to legal sources:</b> Art. 754 of the Civil Code.  Art. 22 - 24 of the Family Code (abolished by the Civil Code).		<b>References to legal sources:</b> Art. 14 of the Registered Partnership Law (zákon o registrovaném partnerství).			
<b>Explanations and nuances:</b> Marriage can be dissolved only on the basis of reasons stipulated in law: death or divorce (in court).		<b>Explanations and nuances:</b> Registered partnership can be dissolved only on the basis of reasons stipulated in law: death or dissolution by court decision.			



Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.05 - Unilateral informal dissolution**

Can this type of relationship be ended by one partner unilaterally without involvement of any authority?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	X	X
No 0000			N/A 0000	X	X
<b>References to legal sources:</b> See question 5.4.		<b>References to legal sources:</b> See question 5.4.			
<b>Explanations and nuances:</b> See question 5.4.		<b>Explanations and nuances:</b> See question 5.4.			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.06 - Dissolution by marrying someone else**

Can a registered partnership be ended by one partner marrying someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 No 2006	X	X
X	X		N/A 0000	X	X
		<b>References to legal sources:</b> See question 5.4.			
		<b>Explanations and nuances:</b> See question 5.4.			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.07 - Ending by conversion**

Can this type of relationship be ended by the partners by way of conversion (of a marriage into a registered partnership or vice versa)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2014	2015 N/A 0000	2015 N/A 0000	2015 No 2006	X	X
No 0000			N/A 0000	X	X
<b>References to legal sources:</b> See question 5.4.		<b>References to legal sources:</b> See question 5.4.			
<b>Explanations and nuances:</b> See question 5.4.		<b>Explanations and nuances:</b> See question 5.4.			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.08 - Ending by marrying each other**

Can a registered partnership be ended by the partners marrying each other?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 No 2006	X	X
		<b>References to legal sources:</b> See question 5.4.			
		<b>Explanations and nuances:</b> See question 5.4.			

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.09 - Property at dissolution**

In case the partners split up, do statutory rules consider as joint property any possessions acquired by either of them after they started 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 No 2006	2015 No 0000	2015 No 0000
Yes, but 0000			N/A 0000		
<p><b>References to legal sources:</b> Art. 709 of the Civil Code.</p> <p>Art. 143 of the previous Civil Code (Act No. 40/1964), abolished by the Civil Code (Act. No. 89/2012).</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b></p>	
<p><b>Explanations and nuances:</b> The abovementioned articles list exceptions from joint property, such as property acquired as gift, inheritance or personal belongings.</p>		<p><b>Explanations and nuances:</b> In the case of cohabitation or registered partnership this type of joint property does not exist.</p>		<p><b>Explanations and nuances:</b> In the case of cohabitation or registered partnership this type of joint property does not exist.</p>	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.10 - Alimony**

In case the partners split up, do statutory rules on alimony apply?

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 Yes 2006	2015 No 0000	2015 No 0000
Yes 0000			N/A 0000		
<p><b>References to legal sources:</b> Art. 760 of the Civil Code (občanský zákoník).</p> <p>Art. 92 of the Family Code (zákon o rodině), abolished by the Civil Code.</p>		<p><b>References to legal sources:</b> Art. 11 of the Registered Partnership Law.</p>		<p><b>References to legal sources:</b></p>	
<p><b>Explanations and nuances:</b> The court takes into account (since 2014) the fact whether the inability to take care of himself (herself) has its grounds in the marriage.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b></p>	

Jurisdiction: **Czech Republic**

Source: L.L. Otáhal, "Splitting up 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-CZ-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.11 - Parental authority**

In case the partners split up, do statutory rules on parental authority/responsibility apply?

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		
<b>References to legal sources:</b> Art. 757 of the Civil Code.  Art. 24a of the Family Code (abolished by the Civil Code).		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b> The social parent who is the registered partner of the parent does not have parental responsibility (but is, however, obliged to take care of the child).		<b>Explanations and nuances:</b>	