

Formalisation of legal family formats in France

by Jérémie Kouzmine 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 1 – Formalisation)

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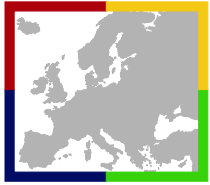
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Disclaimer

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](#) 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 France

The answers concerning France 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 France
by Jérémie Kouzmine (Section 1)**

**Income, troubles and legal family formats in France
by Jérémie Kouzmine (Section 2)**

**Parenting and legal family formats in France
by Elisabeth Ronzier (Section 3)**

**Migration and legal family formats in France
by Jérémie Kouzmine (Section 4)**

**Splitting up and legal family formats in France
by Elisabeth Ronzier (Section 5)**

**Death and legal family formats in France
by Elisabeth Ronzier (Section 6)**

So this paper is based on **Section 1 (Formalisation)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 1.1 Legal family formats**
- 1.2 Two siblings**
- 1.3 With resident foreigner**
- 1.4 With non-resident foreigner**
- 1.5 Two foreigners**
- 1.6 Two resident foreigners**
- 1.7 Two non-resident foreigners**
- 1.8 Start at registry**
- 1.9 Start at public authority**
- 1.10 Start at religious building**
- 1.11 Contract**
- 1.12 Statutory contract**
- 1.13 Surname**
- 1.14 Living together**
- 1.15 Sex**
- 1.16 General background regarding formalisation**
- 1.17 Literature**

In the following pages of this paper, first the answers to questions 1.16 and 1.17 are presented, followed by the answers to questions 1.1 to 1.15.

1.16 - General background regarding formalisation (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, constitutional, legal-cultural, religious, etc.) that may be relevant for the understanding of your answers above regarding formalisation, then please do so here.

1.17 - Literature (Open question)

Please list some relevant literature about the family formats concerned, especially in English and/or online (with web links).

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Larribau-Terneyre, V. Fasc. 10: MARIAGE. - Organisation de la communauté conjugale et familiale. - Principes directeurs du couple conjugal: réciprocité des devoirs entre époux (C.civ., art. 212). - Principes structurant la communauté familiale: direction conjointe de la famille et contribution conjointe aux charges du mariage (C. civ., art. 213 et 214). Jurisclasseur, Civil Code Art. 212 à 215, 75.

Larribau-Terneyre, V. Fasc. 10: EFFETS DU DIVORCE. - Conséquences du divorce pour les époux. - Dispositions générales. - Effets d'ordre personnel. - Effets d'ordre patrimonial. Jurisclasseur, Civil Code Art. 263 à 265-2, 42.

Granet-Lambrechts, F. Fasc. unique: LE PACTE CIVIL DE SOLIDARITÉ. Jurisclasseur, Civil Code Art. 515-1 à 515-7-1, 82.

Blough, R. Le concubinage, dix ans après. Droit de la famille n°4, Avril 2009, 17.

Borrillo, D. & Waaldijk, K., 'Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners', in: Waaldijk, K. (ed.), More or less together - Levels of legal consequences of marriage, cohabitation and registered partnership, Paris: INED, 2005.

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.01 - Legal family formats**

Which of the three legal family formats mentioned here are available to different-sex and/or same-sex couples?

(For the distinction between registered partnership and cohabitation, see section e of the [Guidance for experts answering questions in the questionnaire](#). If there are two or more formats available for informally cohabiting couples, then please mention these formats separately in the explanation to this question.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2013	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999
	No 0000	No 0000	No 0000	Yes, but 0000	No 0000
References to legal sources: Art. 143 of the Code Civil, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.		References to legal sources: Art. 515-1 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.		References to legal sources: Art. 515-8 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Before the Law "regarding the registered partnership" which created a legal support and recognition of cohabitation, this de facto relationship was already acknowledged by the judges. For example, the old art. 340(4) of Code civil (in force until 1993) stated that cohabitation was a way to prove paternity. This nonlegal form of cohabitation, however, did not include same-sex partners. The Cour de Cassation often refused to include them (see for example: Cass. soc., 11 July 1989).</p>	

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.02 - Two siblings**

Is starting this type of relationship legally possible for two siblings?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2013	2015 No 1999	2015 No 1999	2015 No, but 1999	2015 No, but 1999
	N/A 0000	N/A 0000	N/A 0000	? 0000	? 0000
References to legal sources: Art. 162 Code Civil.		References to legal sources: Art. 515-2 of the Code Civil, created by law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.		References to legal sources: Art. 515-8 of the Code Civil, created by law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Article 515-8 of the Code Civil does not prohibit specifically the cohabitation between two siblings. As the prohibition is strictly specified for the marriage and the registered partnership, we could conclude that the cohabitation between two siblings is possible.</p> <p>However, the doctrine thinks that the cohabitation must, as part of the national law, respect national public policy prohibiting incestuous relationships.</p>	

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.03 - With resident foreigner**

Is starting this type of relationship legally possible for a national citizen and a foreigner both residing in the country?
(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 0000	2015 Yes 2015	2015 Yes 1999	2015 Yes 1999	X	X
	Yes, but 2013	N/A 0000	N/A 0000	X	X
	N/A 0000			X	X
<p>References to legal sources: Art. 143 of the Code civil, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p> <p>Art. 201-1 of the Code Civil, created by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p>		<p>References to legal sources: Art. 515-1, 515-3-1 and 515-7 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Regarding same-sex marriages, French law applies the rules of international private law. Article 202-1 of Code Civil explains that the conditions to marry (age, sex) are governed by the national law of each spouse. This article would prohibit a same-sex marriage if the national law of one spouse does not allow same-sex marriages.</p> <p>That is why art. 201-1(2) of Code Civil explains that same-sex couples can marry if the national law of one spouse or the law of the country of residence of one spouse allows it.</p> <p>However, even with art. 201-1 (2) of Code Civil, France had signed bilateral conventions that require the application of national law. If one spouse had the nationality of one of these countries, same-sex marriage was still prohibited. Finally, the Cour de cassation held on 25 January 2015 that the bilateral convention with Morocco forcing the application of the national law violated French public policy. Therefore the court set aside the application of this convention, and now same-sex marriage is permitted between a national citizen and a foreigner no matter what his/her nationality is.</p>		<p>Explanations and nuances: If the partnership is registered in France, French law on registered partnership will apply.</p>			

Jurisdiction: **France**

Source: J. Kouzmine, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.04 - With non-resident foreigner**

Is starting this type of relationship legally possible for a national citizen residing in the country and a foreigner residing abroad?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2015	2015 No 1999	2015 No 1999	X	X
	Yes, but 2013	N/A 0000	N/A 0000	X	X
	N/A 0000			X	X
<p>References to legal sources: Art. 143 of the Civil Code, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p> <p>Art. 201-1 of the Code Civil, created by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p>		<p>References to legal sources: Art. 515-1 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Regarding same-sex marriages, French law applies the rules of international private law. Article 202-1 of Code Civil explains that the conditions to marry (age, sex) are governed by the national law of each spouse. This article would prohibit a same-sex marriage if the national law of one spouse does not allow same-sex marriages.</p> <p>That is why art. 201-1(2) of Code Civil explains that same-sex couples can marry if the national law of one spouse or the law of the country of residence of one spouse allows it.</p> <p>However, even with art. 201-1 (2) of Code Civil, France had signed bilateral conventions that require the application of national law. If one spouse had the nationality of one of these countries, same-sex marriage was still prohibited. Finally, the Cour de cassation held on 25 January 2015 that the bilateral convention with Morocco forcing the application of the national law violated French public policy. Therefore the court set aside the application of this convention, and now same-sex marriage is permitted between a national citizen and a foreigner no matter what his/her nationality is.</p> <p>However, it should be noted that, unless specific circumstances occur, spouses are required by law to cohabit together (art. 215).</p>		<p>Explanations and nuances: The registered partnership is available for two partners only if they reside in France.</p>			

Jurisdiction: **France**

Source: J. Kouzmine, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.05 - Two foreigners**

Is starting this type of relationship legally possible for two foreigners, only one of whom is residing in the country?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2015	2015 No 1999	2015 No 1999	X	X
	Yes, but 2013	N/A 0000	N/A 0000	X	X
	N/A 0000			X	X
<p>References to legal sources: Art. 143 of the Civil Code, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p> <p>Art. 201-1 of the Code Civil, created by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p>		<p>References to legal sources: Art. 515-1 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.</p> <p>Art. 515-3(7) of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Regarding same-sex marriages, French law applies the rules of international private law. Article 202-1 of Code Civil explains that the conditions to marry (age, sex) are governed by the national law of each spouse. This article would prohibit a same-sex marriage if the national law of one spouse does not allow same-sex marriages.</p> <p>That is why art. 201-1(2) of Code Civil explains that same-sex couples can marry if the national law of one spouse or the law of the country of residence of one spouse allows it.</p> <p>However, even with art. 201-1 (2) of Code Civil, France had signed bilateral conventions that require the application of national law. If one spouse had the nationality of one of these countries, same-sex marriage was still prohibited. Finally, the Cour de cassation held on 25 January 2015 that the bilateral convention with Morocco forcing the application of the national law violated French public policy. Therefore the court set aside the application of this convention, and now same-sex marriage is permitted between a national citizen and a foreigner no matter what his/her nationality is.</p> <p>However, it should be noted that, unless specific circumstances occur, spouses are required by law to cohabit together (art. 215).</p>		<p>Explanations and nuances: The registered partnership is available for two foreigners only if they reside in France.</p>			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.06 - Two resident foreigners**

Is starting this type of relationship legally possible for two foreigners residing in the country?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2015	2015 Yes 1999	2015 Yes 1999	X	X
	Yes, but 2013	N/A 0000	N/A 0000	X	X
	N/A 0000			X	X
<p>References to legal sources: Art. 143 of the Civil Code, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p> <p>Art. 201-1 of the Code Civil, created by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n° 2013-404.</p>		<p>References to legal sources: Art. 515-1 of the Code Civil, created by the law "relative au pacte civil de solidarité " of 15 November 1999/n°99-944.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Regarding same-sex marriages, French law applies the rules of international private law. Article 202-1 of Code Civil explains that the conditions to marry (age, sex) are governed by the national law of each spouse. This article would prohibit a same-sex marriage if the national law of one spouse does not allow same-sex marriages.</p> <p>That is why art. 201-1(2) of Code Civil explains that same-sex couples can marry if the national law of one spouse or the law of the country of residence of one spouse allows it.</p> <p>However, even with art. 201-1 (2) of Code Civil, France had signed bilateral conventions that require the application of national law. If one spouse had the nationality of one of these countries, same-sex marriage was still prohibited. Finally, the Cour de cassation held on 25 January 2015 that the bilateral convention with Morocco forcing the application of the national law violated French public policy. Therefore the court set aside the application of this convention, and now same-sex marriage is permitted between a national citizen and a foreigner no matter what his/her nationality is.</p>		<p>Explanations and nuances:</p>			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.07 - Two non-resident foreigners**

Is starting this type of relationship legally possible for two foreigners residing abroad?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 0000	2015 No, but 2013	2015 No 1999	2015 No 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
<p>References to legal sources: Art. 165 and 201-1 of the Code Civil, as amended by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p>		<p>References to legal sources: Art. 515-1 and 515-3(7) of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Two foreigners residing abroad can only marry if the father or mother of one of them has residence in France.</p> <p>Regarding same-sex marriages, French law applies the rules of international private law. Article 202-1 of Code Civil explains that the conditions to marry (age, sex) are governed by the national law of each spouse. This article would prohibit a same-sex marriage if the national law of one spouse does not allow same-sex marriages.</p> <p>That is why art. 201-1(2) of Code Civil explains that same-sex couples can marry if the national law of one spouse or the law of the country of residence of one spouse allows it.</p> <p>However, even with art. 201-1 (2) of Code Civil, France had signed bilateral conventions that require the application of national law. If one spouse had the nationality of one of these countries, same-sex marriage was still prohibited. Finally, the Cour de cassation held on 25 January 2015 that the bilateral convention with Morocco forcing the application of the national law violated French public policy. Therefore the court set aside the application of this convention, and now same-sex marriage is permitted between a national citizen and a foreigner no matter what his/her nationality is.</p>		<p>Explanations and nuances: The registered partnership is available for two foreigners only if they reside in France.</p>			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.08 - Start at registry**

Can you legally start this type of relationship at the registry of births, marriages and deaths (État civil, Standesamt)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2013	2015 No 1999	2015 No 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 166 Code Civil.		References to legal sources: Art. 515-3 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.			
Explanations and nuances: Marriage can start at the city hall.		Explanations and nuances: Registered partnerships can only start at the court with the clerk of the court. A few city halls offer to hold a symbolic ceremony for a partnership after it is registered in court.			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.09 - Start at public authority**

Can you legally start this type of relationship at another public authority (e.g. notary public, local population administration, court)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2013	2015 Yes 1999	2015 Yes 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
<p>References to legal sources: Art. 166 Code Civil.</p> <p>Art. 171-1 of the Code Civil, created by the law "relative au contrôle de la validité des mariages. (1)" of 14 November 2006/n°2006-1376.</p>		<p>References to legal sources: Art. 515-3 Code Civil, as amended by the "loi pénitentiaire" (1) of 24 November 2009/n°2009-1436.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In the country, the marriage can only start in the city hall.</p> <p>Art. 171-1 of Code Civil explains that two nationals or a national and a foreigner can marry outside the country before the diplomatic or consular authorities.</p>		<p>Explanations and nuances: The registered partnership can be started in front of the clerk of the court or in front of a notary (who will register the partnership in court himself).</p> <p>If impossible, the clerk of the court can start the registered partnership at the couple's domicile.</p> <p>Also, if the registered partnership starts in a foreign country, the diplomatic or consular authorities are allowed to do it.</p>			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.10 - Start at religious building**

Can you legally start this type of relationship at a church, synagogue, mosque or other religious building?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 1791	2015 No 2013	2015 No 1999	2015 No 1999	X	X
Yes 0000	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 166 Code Civil.		References to legal sources: Art. 515-3 Code Civil.			
Explanations and nuances: Since 1791, religious marriages have no legal value. Even more, any religion celebrating a religious marriage before the civil marriage breaches the law (art. 433-21 of the "Code pénal").		Explanations and nuances:			

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.11 - Contract**

Can the partners make a contract (with or without third-party effect) to organise their relationship, for example with regard to property or personal obligations? (Think of prenuptial contracts and cohabitation contracts.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2013	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999
	N/A 0000	N/A 0000	N/A 0000	? 0000	? 0000
References to legal sources: Art. 1387 Code Civil.		References to legal sources: Art. 515-4 Code Civil. Art. 515-5 Code Civil. Art. 515-5-1 Code Civil. Art. 515-5-3 of Code Civil.		References to legal sources: Art. 515-8 of the Civil Code, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
Explanations and nuances:		Explanations and nuances: Any aspect of the organized relationship (material support, property, etc.) can be subject to a contract.		Explanations and nuances: The law does not organize such contracts. It would be a sui generis contract. It would be enforced as any other contract. Another option for cohabiting partners is to make a contract at every single step of their relationship (acquisition, renting, etc).	

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.12 - Statutory contract**

Are there specific statutory rules regarding such a contract?

(See question 1.11 about the possibility for the partners to make a contract to organise their relationship.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2013	2015 Yes 2006	2015 Yes 2006	2015 No 1999	2015 No 1999
	N/A 0000	No 1999	No 1999	No 0000	No 0000
		N/A 0000	N/A 0000		
References to legal sources: Art. 1387, 1394, 1395 and 1397-2 of the Code Civil.		References to legal sources: Art. 515-5-2 of the Code Civil, created by the law "portant réforme des successions et des libéralités (1)" of 23 June 2006/n°2006-728.		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A contract is possible as long as it does not violate public policy and, only if it has been made before the marriage and with a notary.</p> <p>Spouses can also choose a foreign law as the applicable law to their marriage.</p>		<p>Explanations and nuances: The partners can organise their relationship through a contract as long as it does not violate public policy. However, on the specific topic of property, the Code Civil gives a list of specific goods that cannot be subject to co-tenancy in such a contract.</p>		<p>Explanations and nuances: There are no statutory rules regarding the organization of cohabitation.</p>	

Jurisdiction: **France**

Source: **J. Kouzmine**, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.13 - Surname**

Can (or must) one partner use or have the surname of the other partner?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2013	2015 Yes 2013	2015 No 1999	2015 No 1999	2015 No 0000	2015 No 0000
Yes, but 0000	N/A 0000	N/A 0000	N/A 0000		
<p>References to legal sources: Art. 225-1 of the Code Civil, created by the law "ouvrant le mariage aux couples de personnes de même sexe" of 17 May 2013/n°2013-404.</p> <p>Art. 264 (1) of the Code Civil, created by the law "portant réforme du divorce" of 11 July 1975/n°75-617.</p>		<p>References to legal sources:</p>		<p>References to legal sources:</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The legislator took the opportunity of the law opening up marriage to same-sex couples, to create a new article on the use of surname in case of a marriage.</p> <p>The spouse may take the family name of the other. It is a choice, not an obligation, and it does not have to be the name of the male spouse. In case of the different-sex couple, the husband can choose to take the name of his wife.</p> <p>Before 2013, the question was ruled only by the dispositions regarding the divorce. One of the effects of the divorce was that each spouse had to take their name of birth back, considering that the wife was given the choice to take the name of her husband or to add it to her last name. The husband was only permitted to add the name of his wife to his last name.</p>		<p>Explanations and nuances: Neither the rules regarding last name changing, nor the law regarding the registered partnership consider the use of the other partner's last name.</p>		<p>Explanations and nuances: Neither the rules regarding last name changing, nor the law regarding the registered partnership consider the use of the other partner's last name.</p>	

Jurisdiction: **France**

Source: J. Kouzmine, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.14 - Living together**

Do partners in this type of relationship have a duty to live together in the same house?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2013	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999	2015 Yes 1999
	N/A 0000	N/A 0000	N/A 0000	Yes, but 0000	No 0000
References to legal sources: Art. 215 (1) and (2) of the Code Civil.		References to legal sources: Art. 515-4 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.		References to legal sources: Art. 515-8 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99-944.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: This article clearly states that spouses have to live together in the same house. They have to choose together where this place will be. However, for serious reasons (such as professional reasons) they can live separately and it will not be pursued as a violation of art. 215.</p>		<p>Explanations and nuances: The Conseil Constitutionnel (constitutional court) decided on 9 November 1999 that this article has to be interpreted as requiring partners living together as a couple.</p>		<p>Explanations and nuances: Article 515-8 of the Code Civil explains that the cohabitation is characterized by the "common life". However, it seems that before the law "regarding the registered partnership", the judges built a case law in which living together was not a necessary condition for the existence of cohabitation (Cass. crim., January, 8th of 1982, n°82-92.753).</p>	

Jurisdiction: **France**

Source: J. Kouzmine, "Formalisation of legal family formats in France". 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-FR-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.15 - Sex**

Does the law require relationships of this type to be sexual or intimate?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 0000	2015 No, but 2013	2015 No, but 1999	2015 No, but 1999	2015 No, but 1999	2015 No, but 1999
	N/A 0000	N/A 0000	N/A 0000	No, but 0000	No 0000
<p>References to legal sources: Art. 212, 215 and 242 of the Code Civil.</p> <p>Art. 222-24(11) of the Code Civil, as amended by the law "renforçant la prévention et la répression des violences au sein du couple ou commises contre les mineurs (1)" of 4 April 2006/n°2006-399.</p>		<p>References to legal sources: Art. 515-4 of the Code Civil, created by the law "relative au pacte civil de solidarité" of 15 November 1999/n°99)944.</p> <p>Art. 222-24(11) of the Code Civil, as amended by the law "renforçant la prévention et la répression des violences au sein du couple ou commises contre les mineurs (1)" of 4 April 2006/n°2006-399.</p>		<p>References to legal sources: Art. 222-24(11) of the Code Civil, as amended by the law "renforçant la prévention et la répression des violences au sein du couple ou commises contre les mineurs (1)" of 4 April 2006/n°2006-399.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The law does not explicitly require sexual relationships to make marriage valid but such relationships must be understood as part of marriage as the legislature decided to regulate some aspects of sexual relationships within the frame of marriage: the rape between spouses is condemned (art. 222-24 Criminal Code), and infidelity is one of the possible causes for divorce with fault (art. 242 Code Civil).</p> <p>The inclusion of sexual relationships is possible through art. 212 and 215 of the Civil Code which explain that the partners have to be loyal towards each other and have to live together.</p> <p>An isolated decision of a court of appeal condemned a husband for not having sexual relationships as often as his wife was entitled to expect (CA Aix-en-Provence, 3 May 2011).</p>		<p>Explanations and nuances: The Conseil Constitutionnel interpreted the registered partnership as an intimate relationship. It must be more than a simple cohabitation. It explained that the obligation of living together meant a "couple life" and also sexual relationships (Conseil Constitutionnel, 9 November 1999).</p> <p>Also, the legislature decided to punish with a higher sentence the rape if the victim is the partner of the perpetrator.</p>		<p>Explanations and nuances: It seems that sexual relationships are not a condition for a valid cohabitation. It is just a proof of the stability and continuity that is required for the relationship to be qualified as a cohabitation. (Cass. crim., 8 January 1985, n°82-92.753: the court decided that the relationship was qualified as a cohabitation even without sexual relationships - Court of Appeal Douai, 12 December 2002, n°01/03255: the court decided that the cohabitation is characterized by an affective and sexual relationship which is known and stable).</p> <p>Also, the legislature decided to punish with a higher sentence the rape if the victim is the partner of the perpetrator.</p>	