

Splitting up and legal family formats in France

by Elisabeth Ronzier 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 5 – Splitting up)

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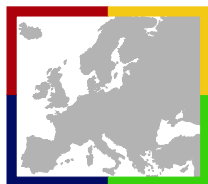
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



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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 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: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 1884	2015 Yes 2013	2015 No 1999	2015 No 1999	X	X
No 1816	N/A 0000	N/A 0000	N/A 0000	X	X
Yes 1792				X	X
No 0000				X	X
References to legal sources: Civil Code, art. 227 and Art. 260.		References to legal sources: Civil Code, art. 515-7.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Only a court decision can end a marriage. An informal separation is not to be taken into account neither by court or by third parties.</p>		<p>Explanations and nuances: Ending a register partnership does not happen in court but through administrative channels.</p>			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 2004	2015 No 2013	2015 Yes 1999	2015 Yes 1999	X	X
No 0000	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Civil Code, art. 230 and 232.		References to legal sources: Civil Code, art. 515-7.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Marriage must be ended by a court decision.</p> <p>However, since the law of 26 May 2004, spouses can get a divorce by mutual consent. In this case, spouses must agree on all the terms of the divorce and present the judge with a written agreement. The judge will operate a light control of the agreement (spouses' free and informed consent and minimum protection of each spouse and of the children in the agreement). If conditions are met, the divorce is automatically ordered. This a very light and fast procedure.</p>		<p>Explanations and nuances: In case of agreed dissolution, partners shall notify the administration. But, if partners had a notary register their partnership in the first place, they shall notify him/her and he/she will take care of notifying the administration.</p>			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 0000	2015 No 2013	2015 Yes 1999	2015 Yes 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Civil Code, art. 227 and art. 260.		References to legal sources: Civil Code, art. 515-7.			
Explanations and nuances: Only a court decision can end a marriage.		Explanations and nuances: The partner willing to end the partnership shall notify the other partner. He/she must also notify the administration. But, if the partnership was registered by a notary the partner willing to end the partnership shall notify the notary.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 0000	2015 No 2013	2015 No 1999	2015 No 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Civil Code, art. 227 and art. 260.		References to legal sources: Civil Code, art. 515-7.			
Explanations and nuances: Only a court decision can end a marriage.		Explanations and nuances: Registered partnership can be ended by mutual agreement without involvement of any authority, but the administrative authority that registered the partnership must be notified in order to update people's registration.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 0000	2015 No 2013	2015 No 1999	2015 No 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Civil Code, art. 227 and art. 260.		References to legal sources: Civil Code, art. 515-7.			
Explanations and nuances: Only a court decision can end a marriage.		Explanations and nuances: Registered partnership can be unilaterally ended without involvement of any authority, but the administrative authority that registered the partnership must be notified (by the partners or by the notary who was in charge of registering the partnership) in order to update the registration.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 Yes 1999	2015 Yes 1999	X	X
X	X	N/A 0000	N/A 0000	X	X
		References to legal sources: Civil Code, art. 515-7.			
		Explanations and nuances: When a partner marries someone else, the civil registrar (who celebrates the marriage) notifies either the administration or the notary who was in charge of registering the partnership, to update registration.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 0000	2015 No 2013	2015 Yes 1999	2015 Yes 1999	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Civil Code, art. 227 and art. 260.		References to legal sources: Civil Code, art. 515-7.			
Explanations and nuances: Only a court decision can end a marriage. Informal separation is not to be taken into account neither by the authorities nor by third parties.		Explanations and nuances: The registered partnership ends by way of conversion into marriage. However, it does not end by way of conversion into cohabitation.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 Yes 1999	2015 Yes 1999	X	X
X	X	N/A 0000	N/A 0000	X	X
		References to legal sources: Civil Code, art. 515-7.			
		Explanations and nuances: When partners marry each other, the civil registrar notifies either the administration or the notary who was in charge of registering the partnership, in order to update registration.			

Jurisdiction: **France**

Source: **E. Ronzier**, "Splitting up and 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-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 0000	2015 Yes, but 2013	2015 Yes, but 1999	2015 Yes, but 1999	2015 No, but 0000	2015 No, but 0000
	N/A 0000	N/A 0000	N/A 0000		
References to legal sources: Civil Code, art. 1400 and following. Civil Code, art. 1538 and following.		References to legal sources: Civil Code, art. 515-5 and following.		References to legal sources: Civil Code, art. 815 and following.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Under the matrimonial regime of community of property - which is the legal regime when no marriage contract is made by spouses - possessions acquired by either of them after they married are considered joint property. However, possessions inherited, acquired with traceable own funds or inherently personal (clothing, working goods, ...) are not joint property.</p> <p>If a marriage contract is made and it provides a "separation as to property" regime, and unless proved otherwise, possessions acquired after the spouses married are considered joint property (50% each).</p> <p>If a marriage contract is made, it can state another repartition of marital property.</p>		<p>Explanations and nuances: If the registered partnership does not state otherwise, possessions acquired by either partner remain their own unless they can prove it is joint property.</p> <p>If the partners choose to be registered under an indivision agreement, partners are considered co-owners (50% each if not stated otherwise).</p> <p>In either case, possessions inherited, acquired with traceable own funds or inherently personal (clothing, working goods, ...) are not joint property.</p> <p>Between 1999 and 2007: an indivision agreement is presumed between partners (joint property as to 50% each), unless the registered partnership states otherwise.</p>		<p>Explanations and nuances: Possessions acquired by partners remain their own unless they have an indivision agreement stating joint property. If not specified otherwise, it is joint property for 50% each.</p>	

Jurisdiction: **France**

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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 0000	2015 Yes 2013	2015 No, but 1999	2015 No, but 1999	2015 No, but 0000	2015 No, but 0000
	N/A 0000	N/A 0000	N/A 0000		

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Civil Code, art. 270 and following.</p>		<p>References to legal sources: Cour de cassation, 1ère Chambre civile, 6 October 1959 (Dalloz 1960 p. 515 by Ph. Malaurie).</p> <p>Cour de cassation, 1ère Chambre civile, 7 June 1963 (Dalloz 1964 p. 621 by J. Pradel).</p> <p>Cour de cassation, 1ère Chambre civile, 6 November 1974, pourvoi 73-10.029.</p> <p>Cour de cassation, 1ère Chambre civile, 14 February 1995, pourvoi 93-12.863.</p> <p>Cour de cassation, 1ère Chambre civile, 19 February 2002, pourvoi 99-18.928.</p> <p>Cour de cassation, 1ère Chambre civile, 3 January 2006, pourvoi 04-11.016.</p> <p>Cour de cassation, 1ère Chambre civile, 20 February 2008, pourvoi 07-15.978.</p>		<p>References to legal sources: Cour de cassation, 1ère Chambre civile, 6 October 1959 (Dalloz 1960 p.515 by Ph. Malaurie).</p> <p>Cour de cassation, 1ère Chambre civile, 7 June 1963 (Dalloz 1964 p.621 by J. Pradel).</p> <p>Cour de cassation, 1ère Chambre civile, 6 November 1974, pourvoi 73-10.029.</p> <p>Cour de cassation, 1ère Chambre civile, 14 February 1995, pourvoi 93-12.863.</p> <p>Cour de cassation, 1ère Chambre civile, 19 February 2002, pourvoi 99-18.928.</p> <p>Cour de cassation, 1ère Chambre civile, 3 January 2006, pourvoi 04-11.016.</p> <p>Cour de cassation, 1ère Chambre civile, 20 February 2008, pourvoi 07-15.978.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Alimony can be decided by the judge when it seems necessary to compensate for the loss of the marital standard of living. The amount is fixed when the divorce is pronounced by court and is payed either at once or by annuities.</p> <p>In addition, the "duty of support" which has its course during the marriage, can lead to additional alimony after divorce if a spouse is in need. It is payed by monthly payments and the amount can be revised each year.</p>		<p>Explanations and nuances: Statutory rules on alimony do not apply to registered partnership.</p> <p>However, caselaw on cohabitation have been applied to registered partnerships when this kind of relationship was introduced into French law. Therefore, if one partner suffers prejudice from the wrongful separation, damages can be allocated following general rules of torts.</p> <p>Sometimes, courts allowed some kind of alimony when the partner promised to do so during the relationship or when it appears to be a moral duty that the law should enforce.</p>		<p>Explanations and nuances: Statutory rules on alimony do not apply to cohabitation.</p> <p>However, if one partner suffers prejudice from the wrongful separation, damages can be allocated following general rules of torts.</p> <p>Sometimes, courts allowed some kind of alimony when the partner promised to do so during the relationship or when it appears to be a moral duty that the law should enforce.</p>	

Jurisdiction: **France**

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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 0000	2015 Yes 2013	2015 Yes 1999	2015 No 1999	2015 Yes 0000	2015 No 0000
	N/A 0000	N/A 0000	N/A 0000		
References to legal sources: Civil Code, art. 373-2.		References to legal sources: Civil Code, art. 373-2.		References to legal sources: Civil Code, art. 373-2.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Since law n°70-459 of 4 june 1970, mother and father both have equal parental authority and responsibility.</p> <p>Since law n°87-570 of 22 july 1987, the separation of the parents has no impact on the rules for conferring and exercising parental authority.</p>		<p>Explanations and nuances: Since law n°70-459 of 4 june 1970, mother and father both have equal parental authority and responsibility.</p> <p>Since law n°87-570 of 22 july 1987, the separation of the parents has no impact on the rules for conferring and exercising parental authority.</p> <p>Same-sex registered partners cannot be both legal parents of a child since legal filiation can only apply to different sex except through adoption, which is only open to married couples.</p>		<p>Explanations and nuances: Since law n°70-459 of 4 june 1970, mother and father both have equal parental authority and responsibility.</p> <p>Since law n°72-3 of 3 january 1972, mother and father both have equal parental authority and responsibility whether married or not.</p> <p>Since law n°87-570 of 22 july 1987, the separation of the parents has no impact on the rules for conferring and exercising parental authority.</p>	