

Death and legal family formats in Greece

by Dafni Lima 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 6 – Death)

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earlier version of the answers in this section of the database.

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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 Greece

The answers concerning Greece 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 Greece

by Lina Papadopoulou (Section 1)

Income, troubles and legal family formats in Greece

by Dafni Lima (Section 2)

Parenting and legal family formats in Greece

by Lina Papadopoulou (Section 3)

Migration and legal family formats in Greece

by Dafni Lima (Section 4)

Splitting up and legal family formats in Greece

by Lina Papadopoulou (Section 5)

Death and legal family formats in Greece

by Dafni Lima (Section 6)

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

6.1 Tenancy continuation

6.2 Property at death

6.3 Inheritance

6.4 Inheritance tax

6.5 Survivor’s pension

6.6 Wrongful death

6.7 General background regarding death

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

6.07 - General background regarding death (Open question)

If you consider it useful to provide some general information or comments about (past, present or future) developments and trends in legal policy and case law in your country/jurisdiction, or information on other aspects (socio-legal, political, legal-cultural, etc.) that may be relevant for the understanding your answers above regarding death, then please do so here.

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Jurisdiction: **Greece**

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Section: **6 - Death**

Question: **6.01 - Tenancy continuation**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1984	2016 N/A 0000	2016 Yes 2015	2016 Yes 2015	2016 No 0000	2016 No 0000
?		No 2008	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: Art. 612 of the Civil Code (Presidential Decree 456/1984).</p>		<p>References to legal sources: Art. 612 of the Civil Code (Presidential Decree 456/1984). Art. 12 of law 4356/2015: "Any other provisions in law that regulate claims between spouses, or claims, benefits and privileges against third parties or the State apply by analogy to registered partners, unless otherwise specifically regulated in the present or any other law."</p>		<p>References to legal sources:</p>	
<p>Explanations and nuances:</p>		<p>Explanations and nuances: Art. 612 of the Civil Code (Presidential Decree 456/1984) refers only to spouses. Under the new law, registered partners are equated to spouses. See question 2.02.</p>		<p>Explanations and nuances: Art. 612 of the Civil Code (Presidential Decree 456/1984) refers only to spouses. However, it could be judicially applied by analogy, depending on the judge (see final comments in Section 4 on the judiciary in Greece). I personally find such an application unlikely, since I believe that the judiciary tends to adopt a conservative approach. See for example case-law cited in this section, under question 6.06.</p>	

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Section: **6 - Death**

Question: **6.02 - Property at death**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No, but 1984	2016 N/A 0000	2016 No, but 2015	2016 No, but 2015	2016 No 2015	2016 No 2015
?		No, but 2008	N/A 0000	No 0000	No 0000
		N/A 0000			
References to legal sources: Art. 1820, as well as 1397 and 1400 (default regime) and art. 1403 and 1405 (opt-in regime) of the Civil Code (Presidential Decree 456/1984).		References to legal sources: Art. 5 par. 2 of law 4356/2015. Art. 11 and 6 of law 3719/2008.		References to legal sources: Art. 6 of law 4356/2015.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Article 1820 specifies that, as an exception, the surviving spouse is entitled to the household items (furniture, appliances, garments etc.) that were used only by him/her or by both spouses, unless the needs of the children of the deceased partner dictate otherwise. Other than that, the default regime for property during marriage, which by inference dictates what happens when one of the spouses dies, is that spouses retain their separate property, even for assets acquired after they got married.</p> <p>The only exception, under art. 1400, are assets towards which the surviving spouse can prove they contributed financially, and to the extent of this contribution (this extent, unless otherwise proven, is presumed to be one third of the total value); this claim however can only be put forward by the spouse (e.g. upon divorce) and not by his/her inheritors.</p> <p>The spouses also have the option to choose a regime of joint ownership, which by default means that each of them is entitled to 50% of assets acquired by either of them during the marriage (with exceptions), which by inference regulates inheritance as well.</p>		<p>Explanations and nuances: Art. 5 par. 2 of law 4356/2015 states that unless otherwise agreed based on the principles of equality and solidarity, provisions on spouses apply by analogy.</p> <p>Art. 6 of law 3719/2008 stated that: "The parties' financial relations, particularly any assets they acquire during the the civil union ("apoktemata"), may be regulated by the civil union agreement or by a subsequent notarized instrument. If no agreement exists on "apoktemata", upon dissolution of the civil union each party shall have a claim to any assets acquired by the other party towards which they have contributed ..."</p> <p>Art. 11 of law 3719/2008 stated that the surviving partner had a right to inherit in case of intestacy and a right to a reserved portion in case the deceased left a will, but both rights were limited to a smaller portion than what would be awarded to a spouse.</p>		<p>Explanations and nuances: Art. 6 of law 4356/2015 states that "in the case of free cohabitation without a registered partnership, assets acquired after the start of the cohabitation ("apoktemata") are regulated under the general provisions for unjust enrichment". There is no particular provision regulating otherwise at death.</p> <p>Provisions on unjust enrichment regulate all kinds of relationships, whether between partners or non-partners, so there is no "special" regulation of cohabitants in that respect, and in any case applying such rules does not necessarily entail being awarded 50% of the deceased's possessions.</p>	

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Section: **6 - Death**

Question: **6.03 - Inheritance**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1984	2016 N/A 0000	2016 Yes 2015	2016 Yes 2015	2016 No 0000	2016 No 0000
?		Yes, but 2008	N/A 0000		
		N/A 0000			
References to legal sources: Art. 1820 of the Civil Code (Presidential Decree 456/1984).		References to legal sources: Art. 8 of law 4356/2015. Art. 11(1) of law 3719/2008.		References to legal sources: No relevant provision exists.	

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: Registered partners are equated to spouses in this respect, the only exception being that registered partners, unlike spouses, have the right to denounce their reserved portions.</p> <p>Until 2015, the registered partner was entitled to a lower percentage than a spouse would have been (unless they are the sole inheritor): 1/6 (instead of 1/4 for the spouse) when there exist inheritors who are descendants of the deceased, and 1/3 (instead of 1/2 for the spouse) when the inheritors are otherwise related to the deceased (e.g. parents).</p>		<p>Explanations and nuances:</p>	

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Section: **6 - Death**

Question: **6.04 - Inheritance tax**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2001	2016 N/A 0000	2016 Yes 2015	2016 Yes 2015	2016 No 0000	2016 No 0000
?		Yes 2008	N/A 0000		
		N/A 0000			
References to legal sources: Art. 25, 28, and 29 of law 2961/2001, as amended by law 3815/2010 (with regard to art. 25).		References to legal sources: Art. 12 of law 4356/2015. Art. 29 of law 2961/2001.		References to legal sources: No relevant provision exists.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Indicatively, under art. 29 a spouse is entitled to be exempt from inheritance tax for the first € 150,000 of the estate, while his/her tax may get as high as 10%. A friend is only exempt for the first 6,000 € of the estate, and their inheritance tax may get as high as 40%. Also, under art. 25, if the spouses have been married for at least five years, then the exemption is increased to include the first € 400,000 of the estate.</p>		<p>Explanations and nuances: Registered partners are equated to spouses according to art. 12 of law 4356/2015, so art. 25, 28, and 29 of law 2961/2001 apply by analogy.</p> <p>Under the previous regime registered partners were also treated like spouses are on the prerequisite that the registered partnership lasted at least two years. Art. 29 of law 2961/2001 refers to spouses and "a person who has entered into a registered partnership with the deceased according to law 3719/2008, which was dissolved due to death, if the registered partnership lasted for at least two years". However, art. 25 that raises the amount that can be exempt from tax to € 400,000 is not applicable to partners under law 3719/2008.</p>		<p>Explanations and nuances:</p>	

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Section: **6 - Death**

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

When one partner dies while being employed, is the surviving partner then normally entitled to a survivor's pension?
 (For example on the basis of statutory law, and/or on the basis of a collective labour agreement or arrangements of the employer.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes, but 1992	2016 N/A 0000	2016 Yes, but 2015	2016 Yes, but 2015	2016 No 0000	2016 No 0000
?		No 2008	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: Art. 62 of law 2676/1999, as amended by Art. 4 of law 3385/2005, Art. 12 and 13 of law 3863/2010.</p> <p>Art. 8 of law 3865/2010, and art. 2(5a) of law 4002/2011.</p> <p>Art. 27 of law 2084/1992.</p> <p>In particular cases: Art. 2 of Presidential Decree 167/2007. Art. 17 of Presidential Decree 168/2007. Art. 5 of Presidential Decree 169/2007.</p>		<p>References to legal sources: Art. 12 of law 4356/2015.</p> <p>Art. 62 of law 2676/1999, as amended by Art. 4 of law 3385/2005, Art. 12 and 13 of law 3863/2010.</p> <p>Art. 8 of law 3865/2010, and art. 2(5a) of law 4002/2011.</p> <p>In particular cases: Art. 2 of Presidential Decree 167/2007. Art. 17 of Presidential Decree 168/2007. Art. 5 of Presidential Decree 169/2007.</p>		<p>References to legal sources: No such provision exists.</p>	
<p>Explanations and nuances: Subject to requirements, such as a minimum duration of marriage.</p>		<p>Explanations and nuances: According to art. 12 of law 4356/2015, provisions regulating spousal relations apply by analogy.</p>		<p>Explanations and nuances:</p>	

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Section: **6 - Death**

Question: **6.06 - Wrongful death**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1984	2016 N/A 0000	2016 Yes 2015	2016 Yes 2015	2016 No 1984	2016 No 0000
?		No 2008	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: Art. 932 of the Civil Code (Presidential Decree 456/1984).</p>		<p>References to legal sources: Art. 12 of law 4356/2015. Art. 932 of the Civil Code (Presidential Decree 456/1984).</p>		<p>References to legal sources: Areios Pagos (Supreme Court), Civil Chambers, Judgment No 775/2011. Areios Pagos (Supreme Court), Civil Chambers, Judgment No 1141/2007. Monomeles Protodikeio Thessalonikis (Single Judge First Instance Court of Thessaloniki), Judgment No 8125/2013.</p>	
<p>Explanations and nuances:</p>		<p>Explanations and nuances: Under Art. 12 of law 4356/2015, registered partners are equated to spouses. It is worth noting that under the previous regime, this was not the case. Art. 932 of the Civil Code (Presidential Decree 456/1984) refers to "family" in general. Case law (see Areios Pagos (Supreme Court), Civil Chambers, Judgment No 775/2011; Areios Pagos (Supreme Court), Civil Chambers, Judgment No 1141/2007; Monomeles Protodikeio Thessalonikis (Single Judge First Instance Court of Thessaloniki), Judgment No 8125/2013) has stated that this does not include a permanent partner other than a spouse, even if this were a registered partner. See in particular Areios Pagos (Supreme Court), Civil Chambers, Judgment No 775/2011, which stated that "cohabitation out of wedlock, even in the form of a registered partnership, cannot be equated with marriage".</p>		<p>Explanations and nuances: Art. 932 of the Civil Code (Presidential Decree 456/1984) refers to "family" in general. Case law has stated that this does not include a permanent partner other than a spouse. See in particular Areios Pagos (Supreme Court), Civil Chambers, Judgment No 775/2011, which stated that "cohabitation out of wedlock, even in the form of a registered partnership, cannot be equated with marriage".</p>	