

Migration and legal family formats in Hungary

by Tamás Dombos 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 4 – Migration)

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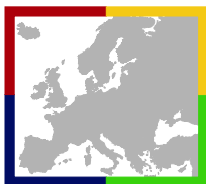
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The six sections of the questionnaire

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 Hungary

The answers concerning Hungary 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 Hungary
by Eszter Polgari (Section 1)**

**Income, troubles and legal family formats in Hungary
by Tamás Dombos (Section 2)**

**Parenting and legal family formats in Hungary
by Eszter Polgari (Section 3)**

**Migration and legal family formats in Hungary
by Tamás Dombos (Section 4)**

**Splitting up and legal family formats in Hungary
by Eszter Polgari (Section 5)**

**Death and legal family formats in Hungary
by Eszter Polgari (Section 6)**

So this paper is based on **Section 4 (Migration)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

4.1 Partner of national citizen

4.2 Partner of national citizen (foreign status)

4.3 Partner of (non-EU) foreigner

4.4 Partner of EU citizen (foreign status)

4.5 Foreign status as impediment to marry

4.6 Foreign status and inheritance

4.7 Citizenship

4.8 Recognition of joint adoption

4.9 Recognition of second-parent adoption

4.10 General background regarding migration

In the following pages of this paper, first the answer to question 4.10 is presented, followed by the answers to questions 4.1 to 4.9.

4.10 - General background regarding migration (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 migration, then please do so here.

Migration and citizenship is an area of law where differences between spouses and registered partners on the one hand and cohabiting partners on the other hand diverge the most, with cohabiting partners lacking access to many rights afforded to more formal forms of partnership.

Hungarian legislation on international private law relegates many issues to foreign jurisdiction, thus several questions cannot be answered based solely on the Hungarian legislation.

While some questions relating to foreigners were settled satisfactorily when drafting the law on registered partnership (such as providing access to the institution for foreigners coming from countries that do not recognize (same-sex) registered partnership), several others (such as what happens to foreign same-sex marriages or same-sex adoptions abroad) have not been dealt with.

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.01 - Partner of national citizen**

When one partner is a residing national citizen, while the other is a foreigner from another continent, will the foreign partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside. 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 1982	2015 N/A 0000	2015 N/A 0000	2015 Yes 2009	2015 Yes, but 2007	2015 Yes, but 2007
No 0000			N/A 0000	No, but 2005	No, but 2005
				No 1978	No 1996
				No 0000	No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 2(bb), 3(2), 7 and 16(2)(b) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence (2007. évi I. törvény a szabad mozgás és tartózkodás jogával rendelkező személyek beutazásáról és tartózkodásáról), was art. 2(1)(e) and art. 14(1) of Act No. XXXIX of 2001 on entry and residence of foreigners (2001. évi XXXIX. törvény a külföldiek beutazásáról és tartózkodásáról), was art. 17(5)(a) and 17(4)(a) of Act No. LXXXVI of 1993 on the entry, residence and immigration of foreigners (1993. évi LXXXVI. törvény a külföldiek beutazásáról, magyarországi tartózkodásáról és bevándorlásáról).</p> <p>Act XXIX of 1989 on emigration and immigration (1989. évi XXIX. törvény a ki- és bevándorlásról).</p> <p>Art. 7 of law decree No. 19 of 1982 on the residence of foreigners in Hungary (1982. évi 19. törvényerejű rendelet a külföldiek magyarországi tartózkodásáról) (in force until 1 January 1990).</p> <p>Decree of the Minister of Interior No. 7/1982. (VIII. 26.) on the implementation of the law decree No. 19. of 1982 on the residence of foreigners (7/1982. (VIII. 26.) BM rendelet a külföldiek magyarországi tartózkodásáról szóló 1982. évi 19. törvényerejű rendelet végrehajtásáról).</p> <p>Government decree 24/1966. (IX. 25.) on the entry and leaving of foreigners and their residence in the country (24/1966. (IX. 25.) Korm. rendelet a külföldiek be- és kiutazásáról, valamint az ország területén való tartózkodásáról).</p>		<p>References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).</p> <p>Art. 2(bj) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence as amended by Act No. CV of 2011 on amending certain labour laws and other laws for purposes of legal harmonization (2011. évi CV. törvény egyes munkaügyi tárgyú és más kapcsolódó törvények jogharmonizációs célú módosításáról).</p>		<p>References to legal sources: Art. 8(1)(a) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence (2007. évi I. törvény a szabad mozgás és tartózkodás jogával rendelkező személyek beutazásáról és tartózkodásáról).</p> <p>Supreme Court Decision No. Kfv. II.39. 032/2005/5. (20 April 2005).</p> <p>Constitutional Court Decision No. 68/E/2004. AB (1 March 2011).</p> <p>Equal Treatment Authority Decision 2007/278/ (8 March 2007).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Since the entry into force in 1994 of the 1993 immigration Act, family members enjoy special entry and residence rights and spouses are mentioned as family members. Since 2007 they are considered persons with the right of free movement and residence. The law differentiates between short term stay (less than 90 days within a 180 day period), long term stay (more than 90 days within a 180 day period) and permanent stay. The latter is limited to spouses whose marriage was concluded two years prior to submitting the request and the couple has lived in a marital community ever since.</p> <p>Between 1990 and 1994, family members or spouses were not specifically mentioned in the legislation, however, the explanatory memorandum of the 1989 law explicitly talks about immigration for family reunification purpose which can be allowed by the authorities. The general framework of the law was that it listed only those groups of people whose immigration cannot be allowed and for whom the authorities enjoy a discretionary power. The 1982 law decree allows immigration for family reunification, however it did not specify who counts as family member. The ministerial decree on the detailed rules of implementation contained a requirement to submit marriage licences implying that authorities did consider spouses as a specific group of applicants.</p> <p>The earlier legislation from 1966 contained no special treatment for family members or spouses.</p>		<p>Explanations and nuances: The general reference rule of the Registered Partnership Act applies.</p> <p>Following a debate with the European Union, an amendment was adopted in 2011 that specifically added registered partners to the list of family members, however, not using the legal term for registered partnership ("bejegyzett élettársi kapcsolat"), but a slightly different term "cohabiting partners in registered partnership" "regisztrált élettársi kapcsolatot létesített élettárs". See further details under question 4.04.</p>		<p>Explanations and nuances: The Free Movement Act adopted in 2007 makes it possible for the immigration authority to recognize a person who lived in the same household with a Hungarian citizen for a year as family member. As opposed to spouses, the recognition is not automatic, the authorities have discretionary power, and one year cohabitation is required.</p> <p>It has to be noted that while cohabiting partners were not specifically mentioned in the legislation before 2007, a case launched by a same-sex couple in 2004 resulted in cohabiting partners (both same-sex and different-sex) being allowed to sponsor their partners for a residence permit. The case concerned whether free use of the cohabiting partner's apartment and financial support by the cohabiting partner could be taken into consideration when deciding on whether the residence and subsistence of the applicant in Hungary is secured. Lower level courts opined that only partners with a statutory duty to support (that is spouses) can sponsor their partners in that way, but finally the Supreme Court decided that since the legislation contains no explicit exclusion, such voluntary forms of support can also be taken into consideration.</p> <p>Another same-sex couple launched legal proceedings at the Equal Treatment Authority and the Constitutional Court, claiming that the fact that the legislation offers them no option similar to spouses, is discrimination based on sexual orientation. Both fora found that there is no discrimination since both different-sex and same-sex cohabiting partners are treated less favourably than spouses. They disregarded the fundamental difference that different-sex couples can always marry, while at the time same-sex couples had no such option.</p>	

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.02 - Partner of national citizen (foreign status)**

When one partner is a residing national citizen, while the other partner is a foreigner from another continent, and this couple married/registered in the country of the foreigner, will the foreign partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1982	2015 No, but 2007	2015 Yes, but 2011	2015 Yes, but 2011	X	X
No 0000	No 2001	Doubt 2009	Doubt 2009	X	X
	N/A 0000	No, but 2007	No, but 2007	X	X
		No 0000	No 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: See response to question 4.01.</p> <p>Art. 37(1) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról), was. art. 16(1)-(2) of Law decree No. 23 of 1952 on the entry into force and implementation of Act No. IV of 1952 on marriage, family and guardianship, and on certain questions related to the law of persons (1952. évi 23. törvényerejű rendelet a házasságról, a családról és a gyámságról szóló 1952. évi IV. törvény hatálybalépése és végrehajtása, valamint a személyi jog egyes kérdéseinek szabályozása tárgyában).</p>		<p>References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).</p> <p>Art. 2(bj) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence as amended by Act No. CV of 2011 on amending certain labour laws and other laws for purposes of legal harmonization (2011. évi CV. törvény egyes munkaügyi tárgyú és más kapcsolódó törvények jogharmonizációs célú módosításáról).</p> <p>Art. 41/A(2) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The immigration laws do not currently and never have contained any specific provisions on the recognition of foreign marriages.</p> <p>The law on private international law sets the requirements of what law to apply when deciding if a marriage is valid and says that the common jurisdiction of the partners at the time of entering into marriage apply, and if they had no such common jurisdiction, the marriage is only legal if it is legal according to both of the jurisdictions of the partners. Since the questions concerns a Hungarian national and Hungarian law does not recognize same-sex marriages, the foreign partner would not have residence entitlement as a spouse (but would have residence eligibility as cohabiting partner).</p>		<p>Explanations and nuances: In principle the general reference rule of the Registered Partnership Act applies.</p> <p>Interestingly, the Office for Immigration and Nationality responded to several research questionnaires for the FRA in 2008-2009 arguing that only registered partnerships performed in Hungary would be recognized. When questioned on their position they issued an official letter that their previous standpoint was not legally binding (letter No. 106-Ált-9/162/2011, dated April 29 2011). The text of the legislation became somewhat clearer with the adoption of art. 2(bj) in 2011, however, the legislation mentions only registered partnerships performed in another EU country, still leaving recognition of registered partnership from other continents unclear. For further details (esp. concerning different-sex registered partners see response to question 4.04).</p> <p>It is worth noting that the general reference rule is applied differently in the law decree on private international law: while a marriage is only legal if it is legal according to the jurisdiction of both partners, registered partnership is also legal if the jurisdiction of one partner does not recognize same-sex registered partnerships, but the other partner is Hungarian citizen or has permanent residence in Hungary.</p> <p>Even if not having residence entitlement as registered partner, the registered partner would have residence eligibility as cohabiting partner.</p>			

Jurisdiction: **Hungary**

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Section: **4 - Migration**

Question: **4.03 - Partner of (non-EU) foreigner**

When both partners are foreigners from another continent, and one of them is residing in the country, will the other partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1982	2015 N/A 0000	2015 N/A 0000	2015 Yes 2009	2015 No 1978	2015 No 1996
No 0000			N/A 0000	No 0000	No 0000
References to legal sources: Art. 2(da) and art. 19(1) of Act No. II. of 2007 on the entry and residence of third-country nationals ((2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról)), for earlier legislation, see response to question 4.01.		References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatáról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The legislation provides for family reunification ("családegyesítés") as a specific type of entry and residence; the definition of family members includes spouses. Before 2007, the same rules applied to spouses of Hungarian and spouses of non-EU citizens.</p>		<p>Explanations and nuances: The general reference rule of the Registered Partnership Act applies.</p>		<p>Explanations and nuances: Cohabiting partners are not included in the list of family members.</p>	

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.04 - Partner of EU citizen (foreign status)**

When one partner is a foreign EU citizen who is residing in the country, while the other is a foreigner from another continent, and this couple married/registered/cohabited in the country of the EU citizen, will the non-EU partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1982	2015 No, but 2007	2015 Yes 2011	2015 Yes 2011	2015 Yes, but 2010	2015 Yes, but 2010
No 0000	No 2001	Doubt 2009	Doubt 2009	Yes, but 2007	Yes, but 2007
	N/A 0000	No, but 2007	No, but 2007	Doubt 2005	Doubt 2005
		No 0000	No 0000	No 0000	No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 2(ba) and 3(2) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence, was art. 25(2)(a) and 27 of Act No. XXXIX of 2001 on entry and residence of foreigners (2001. évi XXXIX. törvény a külföldiek beutazásáról és tartózkodásáról).</p> <p>For earlier legislation see response to question 4.03.</p>		<p>References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).</p>		<p>References to legal sources: Art. 8(1)(b) of Act I of 2007 on the admission and residence of persons with the right of free movement and residence as amended by Act No. CV of 2011 on amending certain labour laws and other laws for purposes of legal harmonization (2011. évi CV. törvény egyes munkaügyi tárgyú és más kapcsolódó törvények jogharmonizációs célú módosításáról).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Since 2007, spouses of EEA citizens also enjoy the right to free movement and residence as they are considered family members similarly to spouses of Hungarian citizens. Between 2004 and 2006, separate rules applied to family members of EEA citizens, albeit granting them the same rights as spouses of Hungarian citizens. There are no specific rules on the validity of marriages performed within the EU, the general rules on the validity of foreign marriages apply, see discussion under question 4.02.</p> <p>Before 2004, the same rules applied as for question 4.03.</p>		<p>Explanations and nuances: In principle the general reference rule of the Registered Partnership Act applies, in combination with the rules on the validity of foreign registered partnership discussed under question 4.02.</p> <p>As described under question 4.01 an amendment was adopted in 2011 to the Free Movement Act that specifically added registered partners to the list of family members using the term "cohabiting partners who entered into registered partnership in front of an authority of Hungary or another member state of the European Union" (rather than simply "registered partners"). Although this was never publicly stated, an official letter by the ministry responsible for the bill (dated 22 June 2011) stated that the novel use of terminology was to make the legislation more comprehensive and not only refer to same-sex registered partners according to Hungarian law, but also to different-sex registered partners from other countries.</p>		<p>Explanations and nuances: As opposed to cohabiting partners of Hungarian citizens, the one year requirement is no longer contained in the legislation for cohabiting partners of EEA citizens since 2010. This is the result of an imminent infringement procedure because the European Commission found the one year rule to be arbitrary. However, the EU acquis only covers partners of EEA citizens and not partners of Hungarian citizens, thus the Hungarian Government decided to split the two categories. The discretionary power of the immigration authority has not been changed. In practice there are no known cases where cohabiting partners are denied residence.</p> <p>It is not clear whether the Court decision in 2005 to allow cohabiting partners to sponsor their partners would also apply to EEA citizens.</p>	

Jurisdiction: **Hungary**

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Section: **4 - Migration**

Question: **4.05 - Foreign status as impediment to marry**

When the couple got married or registered abroad, will this relationship then be recognised as an impediment to marry someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 0000	2015 No, but 2001	2015 No, but 1998	2015 Yes, but 2009	X	X
	N/A 0000	N/A 0000	No, but 1989	X	X
			N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 38(1) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p> <p>Art. 65 of Act No. I of 2010 on the registry procedure (2010. évi I. törvény az anyakönyvi eljárásról).</p> <p>Art. 4:13 of Act No. V of 2013 on the Civil Code (2013. évi V. törvény a Polgári Törvénykönyvről), was art. 7(1) of Act No. IV of 1952 on marriage, family and guardianship ("Family Code") (1952. évi IV. törvény a házasságról, a családról és a gyámságról).</p>		<p>References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).</p> <p>Art. 41/A(1) and 38(1) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p> <p>Art. 65 of Act No. I of 2010 on the registry procedure (2010. évi I. törvény az anyakönyvi eljárásról).</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances:</p> <p>In principle being married is an impediment to getting married to another person according to the basic rules of marriage in the Civil Code (formerly: the Family Code).</p> <p>As to whether a foreign marriage constitutes an impediment, depends on whether the person is a Hungarian citizen or not. The law requires that a foreigner wishing to get married in Hungary submits an official document issued by the authorities of his/her country stating that there is no impediment to them getting married. Thus it is up to the jurisdiction of the foreigner to decide whether they recognize the different-sex or same-sex marriage as an impediment.</p> <p>With regards to the Hungarian partner, marriages performed abroad have to be registered in Hungary as well ("hazai anyakönyvezés"). Since same-sex marriages are not recognized or registered in Hungary (not even as registered partnership), they will not serve as an impediment for the Hungarian partner. When drafting the legislation, the Ministry of Justice and Law Enforcement responsible for the bill argued that same-sex marriages performed abroad would be automatically recognized as registered partnerships in Hungary, thus there are no specific provisions needed. The practice of the Office of Immigration and Nationality (confirmed by an official letter No. 106-Ji-5143/9/2014 dated 30 April 2014) shows that requests for the domestic registration of same-sex marriages performed abroad are routinely rejected.</p>		<p>Explanations and nuances:</p> <p>Although the Civil Code does not explicitly contain an existing registered partnership as an impediment to marriage, the general reference rule of the Registered Partnership Act applies here as well, so since an existing marriage is an impediment, an existing registered partnership is an impediment as well. Similarly to marriage, the question has to be split for the foreign and the Hungarian partner.</p> <p>The same requirement for submitting an official document issued by the authorities of the foreigner's country also applies for registered partnership. Thus it is the foreigner's home country that decides whether the existing registered partnership is an impediment to marriage.</p> <p>If the Hungarian partner entered into a different-sex registered partnership abroad, this will be no impediment, since in Hungary only same-sex registered partnerships are recognized. If he/she entered into a same-sex registered partnership abroad, that registered partnership (if registered domestically) will be an impediment to marriage.</p> <p>It is worth noting, that only registered partnerships performed abroad after the Registered Partnership Act entered into force in Hungary in 2009 can be domestically registered, so a registered partnership from previous years is no impediment.</p>			

Jurisdiction: **Hungary**

Source: T. Dombos, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.06 - Foreign status and inheritance**

When the couple got married or registered abroad, will this relationship then be recognised as regards inheritance in the absence of a testament?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1953	2015 No, but 2015	2015 No, but 1998	2015 Yes, but 2009	X	X
	No, but 2001	N/A 0000	No, but 1989	X	X
	N/A 0000		N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.</p> <p>Art. 7(1), 37(1) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról) (in force since 1 July 1979), was art. 16(1)-(2) of Law decree No. 23 of 1952 on the entry into force and implementation of Act No. IV. of 1952 on marriage, family and guardianship, and on certain questions related to the law of persons (1952. évi 23. törvényerejű rendelet a házasságról, a családról és a gyámságról szóló 1952. évi IV. törvény hatálybalépése és végrehajtása, valamint a személyi jog egyes kérdéseinek szabályozása tárgyában) (in force between 1 January 1953 and 30 June 1979).</p> <p>Art. 36(1) of Law Decree no. 13 of 1979 (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról) (in force between 1 July 1979 and 16 August 2015).</p>		<p>References to legal sources: Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.</p> <p>Art. 41/A(2) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról) (in force since 1 July 2009).</p> <p>Art. 36(1) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról) (in force between 1 July 1979 and 16 August 2015).</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Since August 2015, the relevant EU regulation applies which says the law of the habitual residence shall be applicable. Supposing the question concerns spouses with a habitual residence in Hungary, a spouse will inherit, as they are statutory heirs (see question 6.03). Whether the marriage is recognized as valid or not, is decided by the law on international private law, which says that the common jurisdiction of the partners at the time of entering into marriage applies, and if they had no such common jurisdiction, the marriage is only legal if it is legal according to both of the jurisdictions of the partners. Thus if the deceased is a Hungarian citizen a different-sex spouse will inherit, and a same-sex spouse will not. If it is a foreigner, the authorities will check whether the marriage was valid according the jurisdiction of both spouses. If either partner is Hungarian, a same-sex surviving partner will not inherit as their marriage was not valid according to the personal law of the Hungarian partner. If the same-sex marriage is valid in the jurisdiction of both spouses, the surviving same-sex spouse inherits in principle. However, the law on international private law also contains that no foreign law shall be applied if it runs against the Hungarian public order, which some legal scholars argue would apply to same-sex marriages as well, although there is no case law to support or refute this.</p> <p>Until August 2015, the law on international private law provided that the personal law of the deceased should be applied (that is the law of the country of which the person is a citizen). The same issues regarding the validity of the marriage described above applied here as well.</p>		<p>Explanations and nuances: The same rule applies as for marriage, that is the law of the deceased person's habitual residence will be applied. Supposing the question concerns registered partners with a habitual residence in Hungary, a registered same-sex partner will inherit. If it is a different-sex registered partner, the decision will be based on whether the personal law of the partners recognize registered partnerships. If either of the partners is Hungarian, their registered partnership will not be recognized as valid, and thus the different-sex registered partner will not inherit. In case they are both citizens of countries recognizing different-sex registered partnerships, the different-sex registered partner will inherit.</p> <p>Before the introduction of registered partnership in 2009, only registered partnerships concluded between persons whose personal law recognises the institution of registered partnership had legal effects in Hungary.</p>			

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.07 - Citizenship**

Does a relationship of this type make it easier for a foreign partner to obtain citizenship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1993	2015 N/A 0000	2015 N/A 0000	2015 Yes 2009	2015 No 1978	2015 No 1996
Yes 1957			N/A 0000	No 0000	No 0000
<p>References to legal sources: Art. 4(2)(a) and 4(3)(a) Act No. LV of 1993 on Hungarian citizenship (1993. évi LV. törvény a magyar állampolgárságról).</p> <p>Art. 7(a) of Act No. V of 1957 on Citizenship (1957. évi V. törvény az állampolgárságról).</p>		<p>References to legal sources: Art. 3 of Act No. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation (2009. évi XXIX. törvény a bejegyzett élettársi kapcsolatáról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról).</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: Since 1993 spouses of Hungarian citizens who lived in Hungary for a period of three years while being married to a Hungarian citizen can apply for nationality (as opposed to a general residence requirement of 8 years).</p> <p>Spouses of Hungarian citizens who have been married to a Hungarian citizen for ten years or who have been married to a Hungarian citizen for five years and have a common child (regardless of where they live) can apply for nationality (these two options were introduced in March 2013).</p> <p>Before 1993, the law did not contain a minimum period of residence, naturalization could be requested regardless of the foreign spouse's residence or intent to reside in Hungary.</p>		<p>Explanations and nuances: The general reference rule of the Registered Partnership Act applies.</p> <p>Since a child can never be considered the common child of a same-sex couple, the five year registered partnership and a common child requirement is not an option for them.</p>		<p>Explanations and nuances: Cohabiting partners are not mentioned in the relevant legislation.</p>	

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.08 - Recognition of joint adoption**

When the partners have jointly adopted a child while residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1979	2015 N/A 0000	2015 N/A 0000	2015 No, but 2009	2015 No 1978	2015 No 1996
? 0000			N/A 0000	No 0000	No 0000
<p>References to legal sources: Art. 43(2) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p> <p>Art. 44 of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p>		<p>References to legal sources: Art. 43(2) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p> <p>See question 3.10 for basic rules on joint adoption.</p>		<p>References to legal sources: Art. 43(2) of Law decree No. 13 of 1979 on private international law (1979. évi 13. törvényerejű rendelet a nemzetközi magánjogról).</p> <p>See question 3.10 for basic rules on joint adoption.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The law on international private law clearly states that any adoption of a foreign child by a Hungarian citizen has to be authorized in advance by the Hungarian guardianship authority. Since same-sex couples are not allowed to adopt jointly, their requests will be rejected.</p> <p>The legislation is silent, and there is no case law to assess what happens if an adoption is performed abroad without the permission of the Hungarian authorities. The law on international private law contains that no foreign law shall be applied if it runs against the Hungarian public order, which some legal scholars argue would apply to foreign adoption by same-sex couples as well, although there is no case law to support or refute this.</p> <p>In case the spouses are both citizens of countries allowing joint adoption for same-sex spouses, their adoption will be recognized. In case it is only recognized in the country of citizenship of one spouse, the law of the last country of common citizenship, or in case of the lack thereof, the law of the last country of common residence will be applied, and thus the adoption might be recognized depending on the laws of those countries.</p>		<p>Explanations and nuances: The law on international private law clearly states that any adoption of a foreign child by a Hungarian citizen has to be authorized in advance by the Hungarian guardianship authority. Since same-sex couples are not allowed to adopt jointly, their requests will be rejected. The legislation is silent, and there is no case law to assess what happens if an adoption is performed abroad without the permission of the Hungarian authorities.</p> <p>Concerning foreigners, the same rules apply as for spouses.</p>		<p>Explanations and nuances: The law on international private law clearly states that any adoption of a foreign child by a Hungarian citizen has to be authorized in advance by the Hungarian guardianship authority. Since cohabiting partners are not allowed to adopt jointly, their requests will be rejected.</p> <p>The legislation is silent, and there is no case law to assess what happens if an adoption is performed abroad without the permission of the Hungarian authorities.</p> <p>Concerning foreigners, the same rules apply as for spouses.</p>	

Jurisdiction: **Hungary**

Source: **T. Dombos**, "Migration and legal family formats in Hungary". 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-HU-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.09 - Recognition of second-parent adoption**

When one partner has become the second parent of a child of the other partner, by way of adoption while the partners were residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1979	2015 N/A 0000	2015 N/A 0000	2015 No 2009	2015 No 1978	2015 No 1996
? 0000			N/A 0000	No 0000	No 0000
References to legal sources: See response to question 4.08.		References to legal sources: See response to question 4.08.		References to legal sources: See response to question 4.08.	
Explanations and nuances: Hungarian legislation does not see second parent adoption as a specific type of adoption (see question 3.09). The rules on regular adoption apply. See response to question 4.08.		Explanations and nuances: Hungarian legislation does not see second parent adoption as a specific type of adoption (see question 3.09). The rules on regular adoption apply. See response to question 4.08.		Explanations and nuances: Hungarian legislation does not see second parent adoption as a specific type of adoption (see question 3.09). The rules on regular adoption apply. See response to question 4.08.	