

Parenting and legal family formats in Italy

by Matteo Winkler¹

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

Edited by Kees Waaldijk,² Marie Digoix,³ Natalie Nikolina,² Giuseppe Zago,² Daniel Damonzé,² Arianna Caporali,³ Kamel Nait Abdellah³

Published by INED, Paris, 2017, www.LawsAndFamilies.eu

Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 3 – Parenting)

© 2017 Matteo M. Winkler

¹ Matteo M. Winkler (Dr. Jur., Ph.D., LL.M., Assistant Professor, HEC Paris) is grateful for the useful comments that Marco Gattuso (judge at the Court of Bologna; Director of Articolo29 and co-director of Genius, Rivista di studi giuridici sull'orientamento sessuale e l'identità di genere, www.articolo29.it) made on an earlier version of the answers in this section of the database.

² [Grotius Centre for International Legal Studies](#), Leiden University, Netherlands, www.leiden.edu.



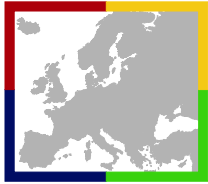
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



Recommended citation:
M.M. Winkler, 'Parenting and legal family formats in Italy', 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 (question 3.x).

Acknowledgment

The research leading to these results has received funding from the European Union's Seventh Framework Programme (FP7/2007-2013) under grant agreement no. 320116 for the research project FamiliesAndSocieties, www.familiesandsocieties.eu.



FamiliesAndSocieties

Disclaimer

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

The six sections of the questionnaire

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

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

Papers and an interactive database

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

a legal expert for the jurisdiction concerned) to the questions in one of these six sections. All these papers can be found in open access at www.LawsAndFamilies.eu. 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 Italy

The answers concerning Italy 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 Italy
by Matteo Winkler (Section 1)**

**Income, troubles and legal family formats in Italy
by Marco Gattuso (Section 2)**

**Parenting and legal family formats in Italy
by Matteo Winkler (Section 3)**

**Migration and legal family formats in Italy
by Matteo Winkler (Section 4)**

**Splitting up and legal family formats in Italy
by Marco Gattuso (Section 5)**

**Death and legal family formats in Italy
by Marco Gattuso (Section 6)**

So this paper is based on **Section 3 (Parenting)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

3.1 Assisted insemination

3.2 IVF

3.3 Surrogacy

3.4 Legal parenthood

3.5 Parental authority

3.6 Parental leave for both parents

3.7 Parental leave for partners

3.8 Grandparents

3.9 Second-parent adoption

3.10 Joint adoption

3.11 Individual adoption

3.12 General background regarding parenting

3.13 Single parenting

3.14 Multiple parenting

In the following pages of this paper, first the answers to questions 3.12, 3.13 and 3.14 are presented, followed by answers to questions 3.1 to 3.11.

3.12 - General background regarding parenting (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 parenting, then please do so here.

3.13 - Single parenting (Open question)

If there are any developments in legal policy and case law regarding the possibilities of an individual person without a partner to have a child through adoption, medically assisted insemination, and/or IVF, you could indicate that here.

3.14 - Multiple parenting (Open question)

If there are any developments in legal policy or case law regarding possibilities for a child to have more than two parents, you could indicate that here.

A recent reform of family law passed in 2012 (Law No. 219 of 2012) equalised all children, which before were discriminated against based on the couple that gave them birth (married or not married, incestuous etc.). Now all children have exactly the same rights and legal status.

Despite this equalisation, however, children of same-sex couples still suffer discrimination because it is harder for them to have their two parents recognised as legal parents or as a couple. Therefore, unless a law is passed which provides those family with access to stepchild adoption (joint adoption is not on the legislature's agenda, nor is same-sex marriage), joint parental status is still lacking in Italian legislation, although courts are recognising stepchild adoption for same-sex couples married abroad or cohabiting in Italy on a case by case basis.

Single persons have no access to adoption nor to medically assisted procreation.

No development in legal policy can be forecast.

Jurisdiction: **Italy**

Source: **M. Winkler**, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.01 - Assisted insemination**

Is it legally possible in this type of relationship to become pregnant through medically assisted insemination using sperm of a donor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2014	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 Yes 2014	2016 No 2004
No 2004			N/A 0000	No 2004	Doubt 0000
Doubt 0000				Doubt 0000	
References to legal sources: Law No. 40 of 19 February 2004, art. 5(1) (access to medically assisted insemination granted only to opposite-sex couples).		References to legal sources: Law No. 76 of 20 May 2016 on civil union between persons of the same sex and cohabiting couples.		References to legal sources: Law No. 40 of 19 February 2004, art. 5(1) (access to medically assisted insemination granted only to opposite-sex couples).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Married couples are permitted to use the semen of a donor under the judgment No. 162 of 10 June 2014. Before that date, only intra-couple fertilization was possible (i.e. using the husband's semen). Same-sex couples are currently excluded from access to medically assisted insemination, even under the new Law No. 76/2016 on civil unions. Such couples typically resort to such techniques abroad.</p> <p>Until 2004, due to the lack of proper legislation, the legality of such techniques was uncertain and subject to contrasting decisions by courts.</p>		<p>Explanations and nuances: Registered partnerships cannot access medically assisted insemination techniques at all.</p>		<p>Explanations and nuances: Same-sex couples are currently excluded from access to medically assisted insemination. Such couples typically resort to such techniques abroad. The new Law No. 76/2016 does not provide any access.</p> <p>Until 2004, due to the lack of proper legislation, the legality of such techniques was uncertain.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.02 - IVF**

Is it legally possible in this type of relationship to become pregnant through in vitro fertilisation (IVF) using donated egg or sperm?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2014	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 Yes 2014	2016 No 2004
No 2004			N/A 0000	No 2004	Doubt 0000
Doubt 0000				Doubt 0000	
References to legal sources: Law No. 40 of 19 February 2004, art. 5(1) (access to medically assisted insemination limited to opposite-sex couples); art. 9(1) (prohibition of heterologous insemination) (see below).		References to legal sources: Law No. 40 of 19 February 2004, art. 5(1) (access to medically assisted insemination limited to opposite-sex couples); art. 9(1) (prohibition of heterologous insemination) (see below).		References to legal sources: Law No. 40 of 19 February 2004, art. 5(1) (access to medically assisted insemination limited to opposite-sex couples); art. 9(1) (prohibition of heterologous insemination) (see below).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: With its judgment No. 162 of 10 April 2014, the Constitutional Court struck down art. 9 of Law No. 40/2004 and the related prohibition of heterologous insemination.</p> <p>Before 2004, the legal situation was uncertain, subject to contradictory decisions by courts.</p>		<p>Explanations and nuances: New Law No. 76/2016 does not grant access to IVF to same-sex registered couples.</p>		<p>Explanations and nuances: With its judgment issued on 10 April 2014, the Constitutional Court struck down art. 9 of Law No. 40/2004 and the related prohibition of heterologous insemination.</p> <p>Before 2004, the legal situation was uncertain, subject to contradictory decisions by courts.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.03 - Surrogacy**

Is it legally possible for both partners in this type of relationship to become the legal parents of a child through the help of a surrogate mother in the country?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No 2004	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 No 2004	2016 No 2004
Doubt 0000			N/A 0000	Doubt 0000	? 0000
References to legal sources: Law No. 40 of 19 February 2004, art. 12(6) (prohibition of surrogacy).		References to legal sources: Law No. 40 of 19 February 2004, art. 12(6) (prohibition of surrogacy).		References to legal sources: Law No. 40 of 19 February 2004, art. 12(6) (prohibition of surrogacy).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Both gratuitous and commercial surrogacies are completely prohibited under Italian criminal law.</p> <p>Before the Law No. 40/2004 the situation was uncertain, as courts decided in different directions.</p>		<p>Explanations and nuances: Both gratuitous and commercial surrogacies are completely prohibited under Italian criminal law even after the new Law No. 76/2016 on civil unions and cohabiting couples.</p>		<p>Explanations and nuances: Both gratuitous and commercial surrogacies are completely prohibited under Italian criminal law even after the new Law No. 76/2016 on civil unions and cohabiting couples.</p> <p>Before the Law No. 40/2004 the situation was uncertain, as courts decided in different directions. Such case law, however, concerned married couples.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.04 - Legal parenthood**

When one partner gives birth, will (or can) the other partner then also become legal parent of the child, without having to go through adoption?
(For example automatically, or by way of recognition/acknowledgement.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 0000	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 Yes 0000	2016 No 0000
			N/A 0000		
References to legal sources: Civil Code, art. 231 (presumption of paternity).		References to legal sources:		References to legal sources: Civil Code, art. 269 and following (natural filiation).	
Explanations and nuances: Presumption of paternity operates only under marriage.		Explanations and nuances: No parental presumption under the new Law No. 76/2016 on same-sex registered partnerships.		Explanations and nuances: In case of different-sex couples, if the parents are not married, they must make a joint or individual recognition of the baby. In case of same-sex couples, legal parentage through such a recognition is not available for the non-biological parent.	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.05 - Parental authority**

Is joint parental authority/responsibility possible for the couple, while only one of the partners is the legal parent of the child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No 0000	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 No 0000	2016 No 0000
			N/A 0000		
<p>References to legal sources: Law No. 184 of 4 May 1983, art. 44 (adoption in particular cases, corresponding to a form of stepchild adoption).</p>		<p>References to legal sources:</p>		<p>References to legal sources: Law No. 184 of 4 May 1983, art. 44 (adoption in particular cases, corresponding to a form of stepchild adoption).</p>	
<p>Explanations and nuances: The spouse of the biological parent is entitled to exercise parental responsibility only after stepchild adoption.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: The partner of the biological parent is entitled to exercise parental responsibility only after adoption. Marriage is not a requirement. Under certain case law, stepchild adoption is available to same-sex couples married abroad or cohabiting in Italy.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler**, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.06 - Parental leave for both parents**

When both partners are the legal parents of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2001	2016 N/A 0000	2016 N/A 0000	2016 Yes 2016	2016 Yes 2001	2016 Yes 2014
No, but 0000			N/A 0000	No, but 0000	No 0000
References to legal sources: Legislative Decree No. 151 of 26 March 2001 (parental leave).		References to legal sources:		References to legal sources: Legislative Decree No. 151 of 26 March 2001 (parental leave).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Any parent is individually entitled to paid leave. Before 2001, the law provided for maternal leave only, while after the abovementioned Legislative Decree such a benefit was extended to fathers as well.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Any parent is individually entitled to paid leave. Before 2001, the law provided for maternal leave only, while after the abovementioned Legislative Decree such a benefit was extended to fathers as well.</p> <p>Please note that for same-sex couples the only way both partners can currently be the legal parents is through stepparent adoption (see question 3.9).</p>	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.07 - Parental leave for partners**

When only one partner is the legal parent of a child, does each partner then have a statutory right to paid or unpaid parental leave?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No 0000	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 No 0000	2016 No 0000
			N/A 0000		
References to legal sources: Legislative Decree No. 151 of 26 March 2001 (parental leave).		References to legal sources:		References to legal sources: Legislative Decree No. 151 of 26 March 2001 (parental leave).	
Explanations and nuances: Any parent is entitled to paid leave. Only the partner who is a parent is entitled to leave. If the other partner is a spouse, he/she is not entitled to parental leave when he/she is not recognised as a parent.		Explanations and nuances:		Explanations and nuances: Any parent is entitled to paid leave. Only the partner who is a parent is entitled to leave. If the partner is a cohabiting partner, he/she is not entitled to parental leave when he/she is not recognised as a parent.	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.08 - Grandparents**

Do grandparents have a statutory right to visit the children in this type of relationship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 2014	2016 N/A 0000	2016 N/A 0000	2016 No, but 2016	2016 Yes 2014	2016 No, but 2014
No 0000			N/A 0000	No 0000	No 0000
References to legal sources: Civil Code, art. 317-bis (rights of grandparents to maintain "significant relationships" with the grandchildren). Art. 317-bis was inserted effective from 7 February 2014.		References to legal sources:		References to legal sources: Civil Code, art. 317-bis (rights of grandparents to maintain "significant relationships" with the grandchildren). Art. 317-bis was inserted effective from 7 February 2014.	

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: See under Cohabitation.</p>		<p>Explanations and nuances: Note that grandparents in same-sex couples are qualified as such depending on the relationship with the grandchildren. Usually stepchild adoption, the only means to establish joint parenting in same-sex couples, does not provide for relationship with the grandparents. Scholars debate whether stepparent adoption creates a full relationship between the child and the family of the adopting parent.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).**

Section: **3 - Parenting**

Question: **3.09 - Second-parent adoption**

When only one partner is the legal parent of a child, does the other partner then have the possibility of becoming the child's second parent by way of adoption?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1983	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2016	2016 Yes 2007	2016 Yes, but 2014
No 0000			N/A 0000	Doubt 0000	Doubt 0000
<p>References to legal sources: Law No. 184 of 4 May 1983, art. 44 (adoption in particular cases, corresponding to a form of stepchild adoption).</p>		<p>References to legal sources: Law No. 184 of 4 May 1983, art. 44 (adoption in particular cases, corresponding to a form of stepchild adoption).</p> <p>Law No. 76 of 20 May 2016 on civil unions between persons of the same sex and cohabiting couples.</p>		<p>References to legal sources: Law No. 184 of 4 May 1983, art. 44 (adoption in particular cases, corresponding to a form of stepchild adoption).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Stepchild adoption is available to married couples, and marriage is currently open to opposite-sex couples only. Same-sex couples married abroad or cohabiting in Italy, however, may seek access to stepchild adoption in court, until Parliament enacts an appropriate norm on stepchild adoption (see Registered Partnership and Cohabitation).</p>		<p>Explanations and nuances: Courts recognise that stepchild adoption is available to cohabiting couples, both of same-sex and opposite-sex couples, upon condition that such adoption reflects the best interest of the child involved.</p> <p>The Law No. 76/2016 does not recognise access to secondparent adoption by registered same-sex couples.</p>		<p>Explanations and nuances: Courts recognise that stepchild adoption is available to cohabiting couples, both of same-sex (since a ruling in 2014) and opposite-sex couples (since a ruling in 2007), upon condition that such adoption reflects the best interest of the child involved. Before those court rulings it was unclear.</p> <p>Recent case law, however, challenges the same-sex possibility, despite the favorable approach adopted by the Supreme Court (No. 12962 of 22 June 2016).</p>	

Jurisdiction: **Italy**

Source: **M. Winkler**, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.10 - Joint adoption**

Can partners jointly adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 Yes 1983	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 No 0000	2016 No 0000
Yes 0000			N/A 0000		
<p>References to legal sources: Law No. 184 of 4 May 1983, art. 6 (Access to adoption limited to married couples).</p>		<p>References to legal sources: Law No. 76 of 20 May 2016 on civil unions between persons of the same sex and cohabiting couples.</p>		<p>References to legal sources: Law No. 184 of 4 May 1983, art. 6 (Access to adoption limited to married couples).</p>	
<p>Explanations and nuances: Joint adoption is currently available to married (therefore opposite-sex) couples only.</p>		<p>Explanations and nuances: Adoption is not statutorily provided for same-sex registered partnerships, even after the Law No. 76/2016.</p>		<p>Explanations and nuances: Joint adoption is currently available to married (therefore opposite-sex) couples only. Cohabiting couples are therefore excluded.</p>	

Jurisdiction: **Italy**

Source: **M. Winkler**, "Parenting and legal family formats in Italy". 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-IT-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.11 - Individual adoption**

Can one partner in this type of relationship individually adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2016 No 0000	2016 N/A 0000	2016 N/A 0000	2016 No 2016	2016 No 0000	2016 No 0000
			N/A 0000		
References to legal sources: Law No. 184 of 4 May 1983, art. 6 (access to adoption limited to married couples).		References to legal sources:		References to legal sources: Law No. 184 of 4 May 1983, art. 6 (access to adoption limited to married couples).	
Explanations and nuances: Adoption is available only to couples, not to single persons, whether married or not.		Explanations and nuances:		Explanations and nuances: Adoption is available only to couples, not to single persons, whether cohabiting or not.	