

Formalisation of legal family formats in Malta

by Christian Attard¹

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

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Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 1 – Formalisation)

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



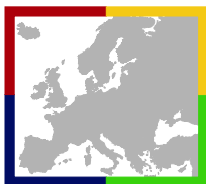
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



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Disclaimer

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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 Malta

The answers concerning Malta 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 Malta by Christian Attard (Section 1)

Income, troubles and legal family formats in Malta by Clara Galea Borg (Section 2)

Parenting and legal family formats in Malta by Christian Attard (Section 3)

Migration and legal family formats in Malta by Christian Attard (Section 4)

Splitting up and legal family formats in Malta by Clara Galea Borg (Section 5)

Death and legal family formats in Malta by Clara Galea Borg (Section 6)

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

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

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

1.16 - General background regarding formalisation (Open question)

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

1.17 - Literature (Open question)

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

A draft bill to regulate cohabitation was published and submitted for public consultation in 2012; however, due to the dissolution of Parliament it was never debated.

A new bill regulating unregistered cohabitation was undergoing public consultation as of April 2016.

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Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.01 - Legal family formats**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 No 0000	2015 Yes 2014	2015 Yes 2014	2015 No 0000	2015 No 0000
		No 0000	No 0000		
References to legal sources: Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.		References to legal sources: Article 3(2) of the Civil Unions Act (Chap. 530 of the Laws of Malta) enacted on 14th April 2014.		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Although there is no provision in the Marriage Act specifying who may contract a marriage (as opposed to who cannot) the exclusion of same-sex couples is traditionally deduced from article 15(2) of the Act which uses the word "his wife or her husband".</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: However, see question 2.7 on the protection (since 2006) of any "household member" against domestic violence.</p> <p>A draft bill to regulate cohabitation was published and submitted for public consultation in 2012; however, due to the dissolution of Parliament it was never debated. A new bill regulating unregistered cohabitation was undergoing public consultation as of April 2016.</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.02 - Two siblings**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 N/A 0000	2015 No 2014	2015 No 2014	2015 N/A 0000	2015 N/A 0000
		N/A 0000	N/A 0000		
References to legal sources: Article 5(1)(b) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.		References to legal sources: Article 5(1)(b) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975, applicable to Civil Unions by virtue of article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).		References to legal sources:	
Explanations and nuances:		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.03 - With resident foreigner**

Is starting this type of relationship legally possible for a national citizen and a foreigner both residing in the country?
(As to the meaning of "residing", see section c of the [Guidance for experts answering questions in the questionnaire](#).)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: Article 18 of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.		References to legal sources: Article 18 of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975, applicable to Civil Unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: A marriage is valid under Maltese law, whether contracted in Malta or abroad, if the formalities required for its validity by the law of the country where the marriage is celebrated are observed and each of the persons to be married is, by the law of the country of his or her respective domicile, capable of contracting marriage. No other restrictions on the basis of residence exist.</p>		<p>Explanations and nuances:</p>			

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: See question 1.3.		References to legal sources: See question 1.3.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: See question 1.3.</p>		<p>Explanations and nuances: Although the Article 18 of the Marriage Act (Chap. 255 of the Laws of Malta, enacted on the 12th August 1975), which is applicable to civil unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta, enacted on 14th April 2014), requires, for the validity of a marriage/civil union, that each of the parties is capable of contracting marriage according to the law of their respective domicile, the Public Registrar in Malta does not raise any objections to the registration of the civil union if the country of domicile of the non-resident foreign partner does not allow civil unions. This has however never been challenged or tested in court.</p>			

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.05 - Two foreigners**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: See question 1.3.		References to legal sources: See question 1.3.			
Explanations and nuances: See question 1.3.		Explanations and nuances: See question 1.4.			

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.06 - Two resident foreigners**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: See question 1.3.		References to legal sources: See question 1.3.			
Explanations and nuances: See question 1.3.		Explanations and nuances: See question 1.4.			

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: See question 1.3.		References to legal sources: See question 1.3.			
Explanations and nuances: See question 1.3.		Explanations and nuances: See question 1.4.			

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.08 - Start at registry**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: Article 16 of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.		References to legal sources: Article 16 of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975, applicable to Civil Unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	X	X
		N/A 0000	N/A 0000	X	X
<p>References to legal sources: Article 16(1) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.</p>		<p>References to legal sources: Article 16(1) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975, applicable to Civil Unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).</p>			
<p>Explanations and nuances: Marriages may be celebrated at any place open to the public which the Marriage Registrar accepts as appropriate. Mayors of Local Councils are specifically empowered to celebrate marriages.</p>		<p>Explanations and nuances:</p>			

Jurisdiction: **Malta**

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Section: **1 - Formalisation**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 No 2014	2015 No 2014	X	X
		N/A 0000	N/A 0000	X	X
References to legal sources: Articles 17, 21 and 22 of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.		References to legal sources: Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The Marriage Act provides that a marriage may be contracted in either civil or religious form. A marriage may be contracted according to the rites and usages of a religion if that religion is recognized for the purposes of the Marriage Act by the responsible Minister. Special rules apply to Catholic marriages pursuant to an Agreement between the Holy See and Malta.</p>		<p>Explanations and nuances: The provisions of the Marriage Act relating to religious marriages are not applicable to civil unions.</p>			

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.11 - Contract**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 Yes, but 0000	2015 Yes, but 0000
		N/A 0000	N/A 0000		
<p>References to legal sources: Title V of Part II of the Civil Code (Chap. 16 of the Laws of Malta) enacted on the 11th February 1870.</p>		<p>References to legal sources: Article 4(1) of the Civil Unions Act (Chap. 530 of the Laws of Malta).</p>		<p>References to legal sources: Anthony Joseph Bajada v. Pauline Lumb, judgement of the Civil Court, First Hall, of 29 March 1955. Fenech Francis v. Jubber Helen, judgement of the Civil Court, First Hall, of 31 January 1983.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Spouses can draw up a marriage contract prior to or after the celebration of their marriage determining the property regime applicable to their marriage. Such property regime cannot be contrary to morals or the provisions of the Civil Code. The property regimes regulated under Maltese law are the system of community of acquests and the community of residue under separate administration.</p>		<p>Explanations and nuances: A civil union has the corresponding effects and consequences in law of civil marriage.</p>		<p>Explanations and nuances: Contractual law would apply to allow cohabiting couples to organise certain aspects of their relationship. However, a string of cases over the years regarding the validity of contracts entered into between cohabiting partners has led to some confusion with regard to their validity. These cases held that if an obligation was entered into in consideration of the cohabitation and had a direct link to that cohabitation, then the contract had an immoral cause and was unenforceable.</p>	

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.12 - Statutory contract**

Are there specific statutory rules regarding such a contract?

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 No 0000	2015 No 0000
		N/A 0000	N/A 0000		
References to legal sources: See question 1.11		References to legal sources: See question 1.11.		References to legal sources:	
Explanations and nuances:		Explanations and nuances:		Explanations and nuances: See question 1.11.	

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.13 - Surname**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 No 0000	2015 No 0000
		N/A 0000	N/A 0000		
References to legal sources: Article 4 of the Civil Code (Chap 16. of the Laws of Malta) enacted on the 11th February 1870.		References to legal sources: Article 4(11) of the Civil Code (Chap 16. of the Laws of Malta) introduced by Act IX of 2014.		References to legal sources:	
Explanations and nuances: Wives take their husband's surname, unless they choose to retain their maiden surname or to add their husband's surname to their maiden surname.		Explanations and nuances: The partners in a civil union may choose to either adopt the surname of one of them or to retain their surnames or to adopt both surnames in the order of their choice for both of them.		Explanations and nuances:	

Jurisdiction: **Malta**

Source: **C. Attard**, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).

Section: **1 - Formalisation**

Question: **1.14 - Living together**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 N/A 0000	2015 N/A 0000
		N/A 0000	N/A 0000		
References to legal sources: Articles 3A, 35, 66L(4)(a) of the Civil Code (Chap 16. of the Laws of Malta) enacted on the 11th February 1870.		References to legal sources: Article 4 of the Civil Unions Act (Chap. 530 of the Laws of Malta).		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Although the law does not explicitly lay down such an obligation, Article 3A of the Civil Code specifies that a matrimonial home "shall" be established by common accord of the spouses. In practice there are of course instances in which the spouses do not live in the same home due to work factors (e.g. where one spouse works in another country).</p> <p>Moreover, Articles 35 and 66L specify that on the pronouncement of personal separation or divorce by the competent court, the obligation of cohabitation of the parties shall cease. Article 41 of the Civil Code also refers to 'desertion' as a ground for personal separation if such desertion has subsisted for two years or more and was without good grounds.</p>		<p>Explanations and nuances: A civil union has the corresponding effects and consequences at law as a marriage. Moreover, the provisions of the Civil Code on personal separation and divorce, including Articles 35 and 66L, are made applicable to civil unions by virtue of Article 4(2)(b) of the Civil Unions Act.</p>		<p>Explanations and nuances: See also question 2.7 on the protection (since 2006) of any "household member" against domestic violence.</p>	

Jurisdiction: **Malta**

Source: **C. Attard, "Formalisation of legal family formats in Malta". 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-MT-Section1.pdf](#) (please use this full citation when citing any information from this table).**

Section: **1 - Formalisation**

Question: **1.15 - Sex**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 N/A 0000	2015 Yes 2014	2015 Yes 2014	2015 N/A 0000	2015 N/A 0000
		N/A 0000	N/A 0000		
<p>References to legal sources: Article 19(1)(f) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975.</p>		<p>References to legal sources: Article 19(1)(f) of the Marriage Act (Chap. 255 of the Laws of Malta) enacted on the 12th August 1975, applicable to Civil Unions by virtue of Article 4(2)(a) of the Civil Unions Act (Chap. 530 of the Laws of Malta).</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: Although no explicit requirement exists in the law stating that the relationship must be sexual, one of the grounds for nullity of a marriage is "the positive exclusion [...] of the right to the conjugal act."</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>	