

Migration and legal family formats in the Netherlands

by Ian Sumner 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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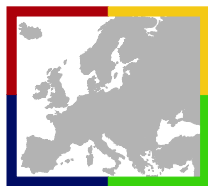
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FamiliesAndSocieties

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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 the Netherlands

The answers concerning the Netherlands 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 the Netherlands by Ian Sumner (Section 1)

Income, troubles and legal family formats in the Netherlands by Natalie Nikolina (Section 2)

Parenting and legal family formats in the Netherlands by Natalie Nikolina (Section 3)

Migration and legal family formats in the Netherlands by Ian Sumner (Section 4)

Splitting up and legal family formats in the Netherlands by Natalie Nikolina (Section 5)

Death and legal family formats in the Netherlands by Natalie Nikolina (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.

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Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-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 1975	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	2015 Yes 2004	2015 Yes 2004
?	N/A	N/A	N/A	Yes, but	Yes, but
0000	0000	0000	0000	1975	1975
				No	No
				0000	0000
References to legal sources: Aliens Act 2000 (as amended), especially, art. 14. Art. 3.4 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially, art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: In order for the foreign partner to be able to come to the Netherlands, the following conditions will need to be satisfied. The question first is whether the residency is requested on the basis of family formation or family reunification. If the former is the case, then the Dutch national needs to be 21 years or older. In the latter case, this age limit is reduced to 18 years of age.</p> <p>Family formation is the case if the relationship started when the Dutch national already lived in the Netherlands. Family reunification if the relationship started when the Dutch national was living abroad. Furthermore, a financial requirement is applicable, namely that the Dutch national needs to have a sufficient and stable income. The income needs to satisfy certain conditions that are set each year. This income also needs to be stable in the sense that it can be proven that it will be received for at least 12 months.</p> <p>Furthermore, the partner needs to also be:</p> <ul style="list-style-type: none"> - registered as living at the same address as the partner; - in possession of a diploma for the test examining knowledge of Dutch society and language (some nationalities are exempt from this requirement); - in possession of a valid travel document; - no threat to national security or public order; - willing to undergo a test for tuberculosis. 		<p>Explanations and nuances: No distinction is drawn between partners involved in a registered partnership or a marriage with respect to the rules for immigration. Therefore, the same answers apply here as with marriage.</p>		<p>Explanations and nuances: Alongside the conditions to be proven in the case of marriage or registered partnership, in this case, one would also need to prove that there is a long-standing and exclusive relationship. A cohabitation contract would aid in this proof, but would not necessarily be required.</p> <p>For the changes in 1975 and 2004, see K. Waaldijk (2005), More or less together: levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners, Paris: Institut National d'Études Démographiques, p. 147, http://hdl.handle.net/1887/12585.</p>	

Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-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 1975	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	X	X
? 0000	N/A 0000	N/A 0000	Yes, but 1989	X	X
			N/A 0000	X	X
References to legal sources: Art. 31, Book 10, Dutch Civil Code. Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.		References to legal sources: Art. 61, Book 10, Dutch Civil Code. Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The only difference between this question and the previous question is the place of marriage. As already stated elsewhere in this questionnaire, according to Dutch law, no distinction is drawn on the basis of the place of the marriage. As Dutch law applies an independent test to the incidental private international law question (art. 4, Book 10, Dutch Civil Code), the question of whether the marriage will be recognised is dealt with separately from the main question.</p> <p>As stated in the previous question, the distinction drawn in Dutch law between family formation and family reunification does not so much relate to the place of the marriage, but where the relationship started and continues. Therefore, a couple that met whilst the Dutch citizen was resident in the Netherlands and the foreign citizen was resident abroad, would still be classed as family formation regardless of where the marriage took place. Therefore, as soon as the recognition of the marriage is dealt with, this situation would be no different than the previous question.</p>		<p>Explanations and nuances: The only difference between this question and the previous question is the place of the registered partnership. As already stated elsewhere in this questionnaire, according to Dutch law, no distinction is drawn on the basis of the place of the registered partnership. As Dutch law applies an independent test to the incidental private international law question (art. 4, Book 10, Dutch Civil Code), the question of whether the registered partnership will be recognised is dealt with separately from the main question.</p> <p>As stated in the previous question, the distinction drawn in Dutch law between family formation and family reunification does not so much relate to the place of the registered partnership, but where the relationship started and continues. Therefore, a couple that met whilst the Dutch citizen was resident in the Netherlands and the foreign citizen was resident abroad, would still be classed as family formation regardless of where the registered partnership took place. Therefore, as soon as the recognition of the registered partnership (art. 61, Book 10, Dutch Civil Code) is dealt with, this situation would be no different than the previous question.</p> <p>Regarding the recognition of a foreign non-married partner before 1998, see question 4.1.</p>			

Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-Section4.pdf](#) (please use this full citation when citing any information from this table).

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 1975	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	2015 Yes 2004	2015 Yes 2004
? 0000	N/A 0000	N/A 0000	N/A 0000	Yes, but 1975	Yes, but 1975
				No 0000	No 0000
References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 3.4 and 3.13 to 3.15 Aliens Decree 2000.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: If the resident foreign national is in possession of permanent residency, then the same conditions will apply to this type of family reunification or family formation as is the case with a Dutch citizen. However, in order to acquire permanent residency in the Netherlands, this requires five years of continuous legal residency in the Netherlands.</p>		<p>Explanations and nuances: If the resident foreign national is in possession of permanent residency, then the same conditions will apply to this type of family reunification or family formation as is the case with a Dutch citizen. However, in order to acquire permanent residency in the Netherlands, this requires five years of continuous legal residency in the Netherlands.</p>		<p>Explanations and nuances: If the resident foreign national is in possession of permanent residency, then the same conditions will apply to this type of family reunification or family formation as is the case with a Dutch citizen. However, in order to acquire permanent residency in the Netherlands, this requires five years of continuous legal residency in the Netherlands.</p>	

Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-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 1975	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	2015 Yes 2004	2015 Yes 2004
?	N/A 0000	N/A 0000	Yes, but 1989	Yes, but 1975	Yes, but 1975
			N/A 0000	No 0000	No 0000
References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 8.7 and 8.8 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 8.7 and 8.8 Aliens Decree 2000.		References to legal sources: Aliens Act 2000 (as amended), especially art. 14. Art. 8.7 and 8.8 Aliens Decree 2000.	
Explanations and nuances:		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-Section4.pdf](#) (please use this full citation when citing any information from this table).

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 0000	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	X	X
	N/A 0000	N/A 0000	Doubt 1989	X	X
			N/A 0000	X	X
References to legal sources: Art. 33, Book 1, Dutch Civil Code. Art. 31, Book 10, Dutch Civil Code.		References to legal sources: Art. 80a(1) and 80a(2), Book 1, Dutch Civil Code. Art. 61, Book 10, Dutch Civil Code.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: If parties have entered into a marriage in a foreign country, then this marriage will be recognised in the Netherlands if the marriage was a valid, legal marriage in the country where the marriage took place. Therefore, even if the parties have entered into a marriage that would not be a legal marriage in the Netherlands (such as a religious marriage), then this marriage will be recognised as a valid, legal marriage in the Netherlands if it was valid in the country of celebration.</p> <p>Since, art. 33, Book 1, Dutch Civil Code also provides for the principle of exclusivity. Therefore, if the foreign marriage is a marriage that will be recognised in the Netherlands, this will indeed form a ground of impediment for a future marriage with someone else.</p>		<p>Explanations and nuances: If parties have entered into a registered partnership in a foreign country, then this registered partnership will be recognised in the Netherlands if the registered partnership was a valid, legal registered partnership in the country where it took place. The major problem with respect to the operation of this provision is understanding the concept of "registered partnership". Art. 61(5), Book 10, Dutch Civil Code provides for minimum requirements which need to be fulfilled in order for the partnership concluded abroad to be regarded as a registered partnership in the Netherlands. According to a circular from the Association for Matters of Civil Status (Nederlandse Vereniging Voor Burgerzaken), the majority of foreign registered partnership schemes are recognised as such in the Netherlands if the registration involves a state authorised registration of the relationship. If the registration invokes a private ceremony and the deed of registration is not included in public registries, then the foreign partnership will not be recognised as a registered partnership in the Netherlands.</p> <p>Since 1998, art. 80a(2), Book 1, Dutch Civil Code also provides for the principle of exclusivity, if the foreign registered partnership is a registered partnership that will be recognised in the Netherlands, this will indeed form a ground of impediment for a future registered partnership with someone else. The same is also true if the parties entered into a marriage with someone else abroad and this marriage is able to be recognised in the Netherlands (art. 31, Book 10, Dutch Civil Code). The marriage, will also form an impediment to the entry into registered partnership with someone else in the Netherlands (art. 80a(1), Book 1, Dutch Civil Code).</p> <p>The same is also true if one of the parties has entered into a registered partnership abroad and this is able to be recognised in the Netherlands (art. 61, Book 10, Dutch Civil Code), then neither of the parties will be entitled to enter into a marriage with someone else in the Netherlands (art. 33, Book 1, Dutch Civil Code).</p>			

Jurisdiction: **Netherlands**

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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, but 0000	2015 Yes, but 2001	2015 Yes, but 1998	2015 Yes, but 1998	X	X
	N/A 0000	N/A 0000	No 1989	X	X
			N/A 0000	X	X
References to legal sources: Art. 31 and 145-152, Book 10, Dutch Civil Code. Art. 10, Book 4, Dutch Civil Code. Art. 20-23, Succession Regulation (EU) 650/2012 (Erfrechtverordening).		References to legal sources: Art. 61 and 145-152, Book 10, Dutch Civil Code. Art. 10, Book 4, Dutch Civil Code. Art. 20-23, Succession Regulation (EU) 650/2012 (Erfrechtverordening).			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: This question needs to be divided into two different aspects. The first section deals with the recognition of the foreign marriage in the Netherlands. According to art. 4, Book 10, Dutch Civil Code, all incidental private international law questions will be dealt with independently. This means that the answers provided in the previous question with respect to the recognition of the foreign marriage would be equally applicable here, despite the fact that the issue is one of inheritance.</p> <p>According to substantive Dutch law, the marriage does have the effect of being taken into account in the field of inheritance. As intestate succession law in the Netherlands is based on consanguinity and marriage, spouses are entitled to inherit from one another; this is the case even if the marriage was concluded abroad.</p> <p>The second issue is, however, whether Dutch substantive law would even apply to this the inheritance issues. As the marriage took place abroad, there would be international elements in the case, which could therefore mean that the law to be applied to the inheritance would not be Dutch law (see art. 21-22 Succession Regulation). If the law applicable to the inheritance did not grant spouses a right to inherit from one another, then the Dutch competent authorities (i.e. either the notary or the court) would have to respect this rule.</p>		<p>Explanations and nuances: This question needs to be divided into two different aspects. The first section deals with the recognition of the foreign registered partnership in the Netherlands. According to art. 4, Book 10, Dutch Civil Code, all incidental private international law questions will be dealt with independently. This means that the answers provided in the previous question with respect to the recognition of the foreign registered partnership would be equally applicable here, despite the fact that the issue is one of inheritance.</p> <p>According to substantive Dutch law, the registered partnership does have the effect of being taken into account in the field of inheritance. As intestate succession law in the Netherlands is based on consanguinity and registered partnership, registered partners are entitled to inherit from one another; even if this is based on a registered partnership concluded abroad.</p> <p>The second issue is, however, whether Dutch substantive law would even apply to this case. As the registered partnership took place abroad, there would be international elements in the case, which could therefore mean that the law to be applied to the inheritance would not be Dutch law. If the law applicable to the inheritance did not grant registered partners a right to inherit from one another, then the Dutch competent authorities (i.e. either the notary or the court) would have to respect this rule.</p> <p>Up until 1998, when the predecessor to Book 10, Dutch Civil Code was first enacted, foreign registered partnerships were not recognised in the Netherlands.</p>			

Jurisdiction: **Netherlands**

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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 0000	2015 Yes 2001	2015 Yes 1998	2015 Yes 1998	2015 Yes, but 1985	2015 Yes, but 1985
	N/A 0000	N/A 0000	N/A 0000	No 0000	No 0000
References to legal sources: Art. 7-13 Kingdom of the Netherlands Nationality Act.		References to legal sources: Art. 7-13 Kingdom of the Netherlands Nationality Act.		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 ability to acquire or lose Dutch nationality is regulated by the Kingdom of the Netherlands Nationality Act. Dutch nationality can either be acquired or attributed. If one is not attributed Dutch nationality by virtue of birth, recognition or adoption, or by choice (used by foreigners born in the Netherlands), then one must undergo a process of naturalisation in order to acquire Dutch nationality. Alongside the requirements that there are no objections to an unlimited stay in the Netherlands and that one has attained the age of majority, the applicant is required to have lived in the Netherlands for five years immediately prior to the application. If the applicant is, however, married or in a registered partnership with a Dutch national for at least three years, then the spouse or registered partner does not need to have lived five years in the Netherlands to be entitled to apply.</p> <p>Furthermore, according to the laws on naturalisation the person wishing to acquire Dutch nationality will have to renounce their own nationality. This is not the case if they are married to a Dutch national, nor is it the case if they are involved in a registered partnership with a Dutch national.</p>		<p>Explanations and nuances: The ability to acquire or lose Dutch nationality is regulated by the Kingdom of the Netherlands Nationality Act. Dutch nationality can either be acquired or attributed. If one is not attributed Dutch nationality by virtue of birth, recognition or adoption, or by choice (used by foreigners born in the Netherlands), then one must undergo a process of naturalisation in order to acquire Dutch nationality. Alongside the requirements that there are no objections to an unlimited stay in the Netherlands and that one has attained the age of majority, the applicant is required to have lived in the Netherlands for five years immediately prior to the application. If the applicant is, however, married or in a registered partnership with a Dutch national for at least three years, then the spouse or registered partner does not need to have lived five years in the Netherlands to be entitled to apply.</p> <p>Furthermore, according to the laws on naturalisation the person wishing to acquire Dutch nationality will have to renounce their own nationality. This is not the case if they are married to a Dutch national, nor is it the case if they are involved in a registered partnership with a Dutch national.</p>		<p>Explanations and nuances: A cohabitation contract has no effect on the grounds according to which the partners are entitled to acquire Dutch nationality.</p> <p>However, according to Article 8(4) of the Kingdom of the Netherlands Nationality Act, de facto cohabitation of at least three years shortens the required period of already living in the Netherlands from five to three years. This has been the case since 1985, see K. Waaldijk, More or less together: levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners, Paris: Institut d'Études Démographiques, p. 147, http://hdl.handle.net/1887/12585.</p>	

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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, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004
Yes, but 0000	Yes, but 2001	Yes, but 1998	Yes, but 1998	Yes, but 0000	Yes, but 0000
	N/A 0000	N/A 0000	N/A 0000		
References to legal sources: Art. 107-112, Book 10, Dutch Civil Code. Art. 23, Hague Adoption Convention 1993.		References to legal sources: Art. 107-112, Book 10, Dutch Civil Code.		References to legal sources: Art. 107-112, Book 10, Dutch Civil Code.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: According to private international family law rules, foreign adoptions will be recognised in the Netherlands according to different sets of rules. A distinction therefore needs to be drawn based on the country where the adoption took place.</p> <p>1. Hague Adoption Convention 1993: If the adoption took place in a foreign state that has also ratified the Hague Adoption Convention 1993, then the adoption will be automatically recognised in the Netherlands, if the parties are able to produce the art. 23 certificate of conformity approved in this Convention.</p> <p>2. Dutch Civil Code: Since 1 May 2004, the Netherlands also recognises foreign adoptions if a number of conditions are satisfied. In this analysis a distinction needs to be drawn between those cases in which the adoptive parents have their habitual residence in the Netherlands (recognition in accordance with art. 109, Book 10, Dutch Civil Code), and those cases where the adoptive parents have their habitual residence abroad (art. 108, Book 10, Dutch Civil Code).</p> <p>These provisions have applied since 1 January 2012. However, these rules have been copied from the Private International Law (Adoption) Act. This Act entered into force on 1 May 2004, and hence the reason why the rules contained in Book 10, Dutch Civil Code are applicable since 1 May 2004, as they contain no substantive difference from the rules contained in the Private International Law (Adoption) Act.</p> <p>Prior to 1 May 2004, all foreign adoptions needed to be reissued by the Dutch authorities, regardless of whether they had been obtained by married couples of different sex or the same sex.</p>		<p>Explanations and nuances: According to private international family law rules, foreign adoptions will be recognised in the Netherlands according to different sets of rules. A distinction therefore needs to be drawn based on the country where the adoption took place.</p> <p>1. Hague Adoption Convention 1993: According to art. 1 Hague Adoption Convention 1993, this convention is only applicable if the adoption relates to spouses or individuals. Therefore, a joint adoption by a couple involved in a registered partnership does not fall within the substantive or material scope of the Convention.</p> <p>2. Dutch Civil Code: Since 1 May 2004, the Netherlands also recognises foreign adoptions if a number of conditions are satisfied. In this analysis a distinction needs to be drawn between those cases in which the adoptive parents have their habitual residence in the Netherlands (recognition in accordance with art. 109, Book 10, Dutch Civil Code), and those cases where the adoptive parents have their habitual residence abroad (art. 108, Book 10, Dutch Civil Code).</p> <p>These provisions draw no distinction between married couples or registered partners. Although Dutch law draws no distinction in this particular case, the problem arises in that the majority of countries in which children are available for adoption (so-called sending countries), the institution of registered partnership is not one that is recognised. As a result, although the Netherlands does not ban registered partners from adopting jointly abroad, such an adoption form is not normally practically possible.</p> <p>Furthermore, if registered partners are resident in the Netherlands and wish to adopt a child from outside the Netherlands, then currently this is not possible (art. 1 Placement of Foreign Children for Adoption Act). Such a joint adoption in the Netherlands is only open to married couples (since 2009 regardless of whether they are same-sex or different-sex).</p> <p>The provisions of Book 10 have applied since the 1st of January 2012. However, these rules have been copied from the Private International Law (Adoption) Act. This Act entered into force on 1 May 2004, and hence the reason why the rules contained in Book 10, Dutch Civil Code are applicable since 1 May 2004, as they contain no substantive difference from the rules contained in the Private International Law (Adoption) Act.</p> <p>Prior to 1 May 2004, all foreign adoptions needed to be reissued by the Dutch authorities.</p>		<p>Explanations and nuances: According to private international family law rules, foreign adoptions will be recognised in the Netherlands according to different sets of rules. A distinction therefore needs to be drawn based on the country where the adoption took place.</p> <p>1. Hague Adoption Convention 1993: According to art. 1 Hague Adoption Convention 1993, this convention is only applicable if the adoption relates to spouses or individuals. Therefore, a joint adoption by a cohabitation couple does not fall within the substantive or material scope of the Convention. This means that even if a foreign state would allow for a joint adoption in the names of a couple with a cohabitation contract, such an adoption would not fall within the substantive scope of the Convention.</p> <p>2. Dutch Civil Code: Since 1 May 2004, the Netherlands also recognises foreign adoptions if a number of conditions are satisfied. In this analysis a distinction needs to be drawn between those cases in which the adoptive parents have their habitual residence in the Netherlands (recognition in accordance with art. 109, Book 10, Dutch Civil Code), and those cases where the adoptive parents have their habitual residence abroad (art. 108, Book 10, Dutch Civil Code).</p> <p>These provisions draw no distinction on the basis of the relationship status of the couple. Although Dutch law draws no distinction in this particular case, the problem arises in that the majority of countries in which children are available for adoption (so-called sending countries), joint adoptions are not possible unless the adoptive parents are married. As a result, although the Netherlands does not ban cohabiting partners from adopting jointly abroad, such an adoption form is not normally practically possible.</p> <p>Nonetheless, if cohabiting partners are resident in the Netherlands and wish to adopt a child from abroad, then currently this is not possible (art. 1 Placement of Foreign Children for Adoption Act). Joint adoption in the Netherlands is only open to married couples (regardless of whether they are same-sex or different-sex).</p> <p>These rules have applied since 1 January 2012. However, these rules have been copied from the Private International Law (Adoption) Act. This Act entered into force on 1 May 2004, and hence the reason why the rules contained in Book 10, Dutch Civil Code are applicable since 1 May 2004, as they contain no substantive difference from the rules contained in the Private International Law (Adoption) Act.</p> <p>Prior to 1 May 2004, all foreign adoptions needed to be reissued by the Dutch authorities.</p>	

Jurisdiction: **Netherlands**

Source: I. Sumner, "Migration and legal family formats in Netherlands". 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-NL-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, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004	2015 Yes, but 2004
Yes, but 0000	Yes, but 2001	Yes, but 1998	Yes, but 1998	Yes, but 0000	Yes, but 0000
	N/A 0000	N/A 0000	N/A 0000		
References to legal sources:		References to legal sources:		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: These answers are no different than the answers with respect to joint adoption in the previous question.</p>		<p>Explanations and nuances: These answers are no different than the answers with respect to joint adoption in the previous question.</p> <p>Second-parent adoption is no longer limited to spouses. Since 1998, it is also open to different-sex registered and cohabiting partners, and since 2001 to same-sex partners.</p>		<p>Explanations and nuances: These answers are no different than the answers with respect to joint adoption in the previous question.</p> <p>Second-parent adoption is no longer limited to spouses. Since 1998, it is also open to different-sex registered and cohabiting partners, and since 2001 to same-sex partners.</p>	