

## Formalisation of legal family formats in Norway

by Thomas Eeg<sup>1</sup>

*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 1 – Formalisation)

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# 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](http://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](http://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 Norway

The answers concerning Norway 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](http://www.LawsAndFamilies.eu)):

### Formalisation of legal family formats in Norway by Thomas Eeg (Section 1)

### Income, troubles and legal family formats in Norway by Halvor Frihagen (Section 2)

### Parenting and legal family formats in Norway by Thomas Eeg (Section 3)

### Migration and legal family formats in Norway by Halvor Frihagen (Section 4)

### Splitting up and legal family formats in Norway by Thomas Eeg (Section 5)

### Death and legal family formats in Norway by Thomas Eeg (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.

A translation of the Marriage Act can be found here: [www.regjeringen.no/en/dokumenter/the-marriage-act/id448401/](http://www.regjeringen.no/en/dokumenter/the-marriage-act/id448401/).

**Two persons of opposite or the same sex may enter into marriage according to an amendment of the Marriage Act which entered into force 1 January 2009. At the same time the Registered Partnership Act, which had entered into force 1 August 1993, was repealed. This act had made registration of a homosexual partnership a criterion to obtain the same legal consequences as for parties contracting a marriage. This included provisions regarding maintenance, property relations between spouses, taxation, social benefits, pension rights after divorce, division of property after divorce or upon the death of a spouse, inheritance, and more. The (main) exception was the possibility to adopt children together. Same-sex married couples can since 2009 adopt together, but registered partners and cohabitants could not adopt together until 2014, see question 3.10. Second-parent or stepchild adoption became available for registered partners from 2002, see question 3.09.**

There is no similar comprehensive Act with regard to unmarried cohabitation, which has been the fastest growing form of adult relationships since the late 1960s. Instead there are a few statutory provisions and non-statutory rules regarding some aspects. Non-statutory based privileges regarding joint ownership can be dated at least back to 1978, and statutory privileges from 1981, although these first privileges were not designed exclusively for cohabitants, see question 1.01. Furthermore, the criteria for having privileges as a cohabitant are not necessarily the same in different areas of law.

Contrary to spouses cohabitants do not have maintenance obligations towards one another. Furthermore, in the field of private law the rules differs concerning property rights following the dissolution of the relationship, and inheritance rights upon the death of a cohabitant. However, in 2014 an expert committee opted for equal status for cohabitants and spouses in a proposal for a new inheritance law (NOU 2014: 1 Ny arelov. [www.regjeringen.no/no/dokumenter/nou-2014-1/id750736/](http://www.regjeringen.no/no/dokumenter/nou-2014-1/id750736/)). From 2014 a

cohabitant in both same-sex and opposite-sex in stable and marriage-like relationships can as a main rule with the other cohabitant's consent adopt his or her child(ren), and such cohabitants can from 2014 also apply for joint adoption.

There is a tendency towards fewer differences between marriage and cohabitation, but no unanimity whether full legal equality is possible or desirable. It is not likely that the present government will take legislative initiatives. In its report on family policy from April 2016, the Ministry of Children and Equality stated that cohabitation is given approximately equal status as marriage for couples with joint children, with regards to inheritance and estate distribution. It also referred to the work in progress regarding a new inheritance law, which can have consequences for the economy of the family, in particular for the surviving spouse or cohabitant. It did not suggest any further steps towards legal equality between spouses and cohabitants.

Eeg, T. (2017). Registered Partnerships in Norway. In J. M. Scherpe & A. Hayward (eds.), *The Future of Registered Partnerships*. Intersentia (forthcoming).

Rydström, J. (2011). *Odd Couples. A History of Gay Marriage in Scandinavia*. Amsterdam University Press.

Asland, J. & K. Waaldijk. (2005). *More or less together - Norway*. [hdl.handle.net/1887/12585](http://hdl.handle.net/1887/12585)

Lødrup, P. (2002). Norway. In C. Hamilton & A. Perry (eds.), *Family Law in Europe* (pp.494-519). London/Edinburgh: Butterworths.

Asland, J., Hambro, P. (2009). New developments and expansion of relationships covered by Norwegian Law. In B. Atkins (ed.) *The International Survey of Family Law 2009 Edition* (pp. 375-384). Bristol: Family Law.

Lund-Andersen, I. (2012). The Nordic Countries: Same Direction - Different Speeds. In K. Boele-Woelki & A. Fuchs (eds.), *Legal Recognition of Same-Sex Relationships in Europe* (pp. 3-17).

### 1.17 - Literature (Open question)

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

Cambridge: Intersentia.

Sverdrup, T. (2009). Norway. In K. Boele-Woelki, B. Braat & I. Curry-Sumner (eds.), *European Family Law in Action. Volume IV: Property Relations between Spouses*. Antwerp/Oxford/Portland: Intersentia. (see also Sverdrup's national report for Norway on property relations between spouses here: [www.ceflonline.net/country-reports-for-norway/](http://www.ceflonline.net/country-reports-for-norway/)).

Sverdrup, T. (2015). Norway. In K. Boele-Woelki, C. Mol & E. van Gelder (eds.), *European Family Law in Action. Volume V: Informal relationships*. Cambridge/Antwerp/Portland: Intersentia. (see also Sverdrup's national report for Norway on informal relationships here: [www.ceflonline.net/country-reports-for-norway/](http://www.ceflonline.net/country-reports-for-norway/)).

Asland, J. et al. (2015). *Nordic Cohabitation Law*. Cambridge/Antwerp/Portland: Intersentia.

Lødrup, P., & Sverdrup, T. (2016). *Familieretten [The Family Law] (8th ed.)*. Oslo: 07 Gruppen AS.

Holmøy, V., Lødrup, P., Asland, J. (2013). *Ekteskapsloven med kommentarer. Bind 1 [The Marriage Act with comments. Volume 1] (3rd ed.)* Oslo: Gyldendal.

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 Yes 2009	2015 No 0000	2015 No, but 2009	2015 Yes 1991	2015 Yes 1991
	No 0000		Yes 1993	No, but 1972	No, but 1981
			No 0000	No 0000	Doubt 1978
					No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>            Art. 1 of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47 (in force 1 January 1993), as amended by law of 27 June 2008 nr. 53 (in force 1 January 2009).</p>		<p><b>References to legal sources:</b>            Art. 1 of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40 (in force 1 August 1993).</p>		<p><b>References to legal sources:</b>            Art. 213 and 379 in Almindelig borgerlig Straffelov [General Civil Penal Code] 22 May 1902 nr. 10, repealed by law of 21 April 1972 nr. 18 (in force 21 April 1972).             Art. 12-4 of Lov om folketrygd [Social Security Act] 17 June 1966 nr. 12, as amended by law of 23 June 1972 nr. 68, repealed 1 May 1997 by lov om folketrygd [Social Security Act] 28 February 1997 nr. 19.             Rt. 1975 p. 50 Høyesterett [Supreme Court] 24 January 1975.             Rt. 1977 p. 278 Høyesterett [Supreme Court] 17 March 1977.             Rt. 1978 p. 1352 Høyesterett [Supreme Court] 17 November 1978.             Art. 13 and 16 in lov om borettslag [Housing Cooperatives Act] 4 February 1960 nr. 2, amended 5 June 1981 nr. 47 (repealed by lov om burettslag [Housing Cooperatives Act] 6 June 2003 nr. 39 art. 14-1 (2), in force 15 August 2005).             Lov om rett til felles bolig og innbo når husstandsfellesskap opphører [Act relating to the Right to the Joint Residence and Household Goods when a Household Ceases to Exist] 4 July 1991 nr. 45 (in force 1 October 1991).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      No statutory provision explicitly stated the availability of marriage for different-sex couples before the amendment in 2008, albeit numerous provisions acknowledged and/or presupposed it. The legal source was non-statutory law dating at least back to pre-Christianity medieval age.</p>		<p><b>Explanations and nuances:</b>                      The act was repealed by law of 27 June 2008 nr. 53, in force 1 January 2009. Registered partnerships did however not cease to exist, but could/can upon the request of the partners be transformed into a marriage. The provisions necessary for regulating the still existing partnerships are now included in art. 95 of Lov om ekteskap [The Marriage Act] 4 July 1991 nr. 47.</p>		<p><b>Explanations and nuances:</b>                      Until 1972 concubinage between two persons of opposite sex and homosexual intercourse between men - not women - were criminal offences. However, the provision against concubinage was hardly ever used. The provision against homosexual intercourse had been very rarely used in the preceding years, and allegedly not against intercourse between two consenting adults, unless there were also other criminal offences involved. (For more information on the history of the (de)criminalisation of homosexual sex in Norway, see Halsos, M. S.: "Norway 1842-1972: When Public Interest demands", in Rydström, J. and K. Mustola (eds.) (2007) <i>Criminally Queer. Homosexuality and Criminal Law in Scandinavia 1842-1999</i>. Aksant Academic Publishers, Amsterdam.)</p> <p>Cohabitation could however have legal effects. In a ruling from 1975, the Supreme Court applied by analogous interpretation a statutory provision regarding identification between spouses in assessing the significance of guilt concerning damage insurance. The payment to the policy holder was reduced due to her cohabitant's gross negligence. The couple had lived together for 20 years and had three children together, and had all in all acted as if they were married. However, in a ruling two years later, identification was denied. The engaged couple had lived together for 2 ½ years and it was not clear whether or not they actually would get married.</p> <p>In 1978 the Supreme Court acknowledged that importance should be attached to domestic work when considering the size of the shares in a joint ownership comprising i.a. the common dwelling, a leisure property (a cabin) and a car between two cohabitants, with reference to the same viewpoints in Rt. 1975 p. 220, which concerned two spouses. However, it can be argued that the same viewpoint could have been applied if the two persons had lived together without being a couple, or of the same sex.</p> <p>Statutory provisions concerning ownership to shares in housing cooperatives, designed in a manner that included persons who lived together with another adult without being married and thus not exclusive for cohabitating couples, were given in 1981. The amendments made it legal for two persons who had constituted a household community for a minimum period of two years to obtain a share together. Furthermore, a formal approval from the board of the housing cooperative was no longer needed if a share was obtained by a person with whom the previous shareowner had been living in a household community with for at least two years. However, far from all Norwegians lived in housing cooperatives. A breakthrough in legislation of significance for cohabitants as such came in 1991, although the act relating to the right to the joint residence and household goods when a household ceases to exist uses a similar technique as the provisions in the housing cooperatives act. It secures to some extent household community members' interests if the household ceases to exist, but only if the parties have lived together for two years, or they have, have had or are expecting a child together, and thereby first and foremost for parties of stable, marriage-like relationships with or without children together.</p> <p>Several provisions within the sectors of social security and tax law have been given since 1993, giving equal status to cohabitants in marriage-like relationships either with joint children or who have lived together in at least 12 of the last 18 months, and spouses.</p> <p>Today, several legal sources including statutory provisions recognise and/or presuppose the existence and lawfulness of cohabitation.</p>	

Jurisdiction: **Norway**

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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 No 2009	2015 N/A 0000	2015 N/A 2009	2015 No 0000	2015 No 0000
	N/A 0000		No 1993		
			N/A 0000		
<b>References to legal sources:</b> Art. 3 of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.		<b>References to legal sources:</b> Art. 2(1) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 Yes 2009	2015 N/A 0000	2015 N/A 2009	X	X
	N/A 0000		Yes 1993	X	X
			N/A 0000	X	X
<b>References to legal sources:</b> Art. 5a of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.		<b>References to legal sources:</b> Art. 2(3) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.			
<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>			

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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, but 1995	2015 Yes, but 2009	2015 N/A 0000	2015 N/A 2009	X	X
Yes 0000	N/A 0000		Yes, but 1995	X	X
			Yes 1993	X	X
			N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>                      Art. 5a of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47, added by Law of 24 June 1994 nr. 24, in force 1 January 1995.</p> <p>Odelstingsproposisjon [Proposition to the Odelsting] nr. 44 (1993-1994) Om lov om endringar i lov 4 Juli 1991 nr 47 om ekteskap [For a Law concerning amendments of the Marriage Act] p. 5.</p>		<p><b>References to legal sources:</b>                      Art. 2(3) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            According to a translation available at the government's web site (see web link in question 1.16), a foreign citizen must be "lawfully resident" in Norway in order to contract a marriage here. However, it can be argued that this is not an accurate translation. It is also stated in the Preparatory works that a residence permit is not required for foreign citizens with a valid visa and foreign citizens from countries where a visa is not required for stays of less than three months' duration. Furthermore, foreigners staying in Norway while applying for asylum or a residence permit can also contract a marriage in Norway while waiting for the outcome of the application. This means that in practice "legally present" is the condition, which is probably also a more accurate translation of the relevant condition. During the administrative preparations ("prøving" in Norwegian) and the actual ceremony the future spouses must have legal stay in Norway, i.e. residence permit, visitor's visa, Schengen residence permit with visa free 90 day stay, visa exempt person with 90 day stay etc. Former asylum seekers with rejected applications is the largest group present in Norway not able to enter into legal marriage. Up-to-date documentation from the Directorate of Immigration must in practice be presented. Some lawyers allegedly argue this is against ECHR art. 12, but we are not aware of any legal challenges against the law/practice.</p>		<p><b>Explanations and nuances:</b></p>			

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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, but 1995	2015 Yes, but 2009	2015 N/A 0000	2015 N/A 2009	X	X
Yes 0000	N/A 0000		No, but 2001	X	X
			No 1993	X	X
			N/A 0000	X	X
<b>References to legal sources:</b> Art. 5a of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47, added by Law of 24 June 1994 nr. 24, in force 1 January 1995.		<b>References to legal sources:</b> Art. 2(3) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      See question 1.04.</p>		<p><b>Explanations and nuances:</b>                      The article was amended by Law of 21 December 2000 nr. 104, in force 1 March 2001. Until this date it was a criterion that one of the parties had to be a citizen of Norway. From this date citizenship of Denmark, Iceland and Sweden were given equal status as Norwegian citizenship in this respect. Furthermore, from the same date the administration was delegated the authority to enact provisions to give citizenship of other countries equal status, which was done in 2002 for citizenship of Finland and of the Netherlands.</p>			

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 Yes 2009	2015 N/A 0000	2015 N/A 2009	X	X
	N/A 0000		No, but 2001	X	X
			No 1993	X	X
			N/A 0000	X	X
<b>References to legal sources:</b> Art. 5a of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47, added by Law of 24 June 1994 nr. 24, in force 1 January 1995.		<b>References to legal sources:</b> Art. 2(3) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<b>Explanations and nuances:</b> See question 1.04.		<b>Explanations and nuances:</b> See question 1.05.			

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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, but 1995	2015 Yes, but 2009	2015 N/A 0000	2015 N/A 2009	X	X
Yes 0000	N/A 0000		No, but 2001	X	X
			No 1993	X	X
			N/A 0000	X	X
<b>References to legal sources:</b> Art. 5a of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47, added by Law of 24 June 1994 nr. 24, in force 1 January 1995.		<b>References to legal sources:</b> Art. 2(3) of Lov om registrert partnerskap [Registered Partnerships Act] 30 April 1993 nr. 40.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            See question 1.04.</p>		<p><b>Explanations and nuances:</b>            See question 1.05: Citizenships of some countries were given equal status to Norwegian with effect from 2001 and 2002. It also followed from the amendment that it was sufficient if one of the parties had been residing (domiciled) in Norway within the preceding two years before contracting a registered partnership.</p>			

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 No 0000	2015 No 2009	2015 N/A 0000	2015 N/A 2009	X	X
	N/A 0000		No 1993	X	X
			N/A 0000	X	X
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><b>Explanations and nuances:</b>            I interpret "legally start" to mean the formal act that is a condition for the rights and obligations connected to being married, and not the administrative preparations that are necessary ("prøving" in Norwegian, i.e. controlling that the conditions for contracting marriage are present). According to art. 6 of the Marriage Act, this preparatory task is carried out by the Population Register Authority, or in some cases a Norwegian diplomatic or consular service servant.</p>		<p><b>Explanations and nuances:</b></p>			

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 Yes 2009	2015 N/A 0000	2015 N/A 2009	X	X
	N/A 0000		Yes 1993	X	X
			N/A 0000	X	X
<b>References to legal sources:</b> Art. 12(1)b, c and d of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.		<b>References to legal sources:</b> See question 1.10.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            Notarius Publicus, which normally means judges and deputy jugdes of the district courts, and in some cases a Norwegian diplomatic or consular civil servant. Furthermore, the Ministry of Children, Equality and Social Inclusion may appoint special solemnisers if needed due to long distances or other reasons.</p>		<p><b>Explanations and nuances:</b></p>			

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-Section1.pdf](#) (please use this full citation when citing any information from this table).

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, but 0000	2015 No, but 2009	2015 N/A 0000	2015 N/A 2009	X	X
	N/A 0000		No, but 2007	X	X
			No 1993	X	X
			N/A 0000	X	X

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b>            Art. 12(1)a and 13(2) of Lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.</p>		<p><b>References to legal sources:</b>            Art. 15 of Forskrift til partnerskapsloven om prøving og fremgangsmåte m.v. ved registrering av partnerskap [Regulation for the Registered Partnership Act concerning review and proceeding and more for registration of partnership] 10 July 1993 nr. 748, repealed by Forskrift [Regulation] 27 June 2008 nr. 745.</p>			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      According to article 12(1)a, solemnisers of marriage are clergymen of the Church of Norway, or priests or ministers of registered religious communities, or ceremonial leaders or the like in belief communities that receive a grant pursuant to the Act of 12 June 1981 Nr. 64 on grants for belief communities, if the King has approved the form of solemnisation of marriage. However, according to art. 13(2), a clerical solemniser may refuse to solemnise a marriage if the parties to the marriage are of the same sex. Furthermore, the Church of Norway has yet to develop a liturgy for solemnising marriage between two persons of the same sex. However, a majority of the Church of Norway's Church Meeting in April 2016, voted in favour of developing such a liturgy, which might be passed at the Church Meeting of 2017.</p> <p>Ceremonial leaders of a religious community, Åsatrufellesskapet Bifrost (worshipping the old Norse gods), are entitled to (and obliged to) solemnise marriages between community members, including same-sex marriages. Non-members may apply to the chief for a solemnisation by Bifrost. This community does however not have a church, and usually perform the weddings outdoors.</p> <p>Ceremonial leaders or the like of Human-Etisk Forbund [the Norwegian Humanist Association] also perform legally binding same-sex weddings.</p>		<p><b>Explanations and nuances:</b>                      The article was amended by regulation 16 November 2006 nr. 1459, in force 1 January 2007. Hence, in 2007 and 2008 it was possible for ceremonial leaders of non-religious belief societies to register partnerships if the Ministry of Children and Equality had approved of the form of registration of partnerships. The only society for which this applied was Human-Etisk Forbund [the Norwegian Humanist Association].</p>			

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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, but 0000	2015 Yes, but 2009	2015 N/A 0000	2015 Yes, but 1993	2015 Yes 1978	2015 Yes 1978
	N/A 0000		N/A 0000	Doubt 1972	Doubt 1972
				Doubt 0000	Doubt 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>References to legal sources:</b> Art. 5(1)(2) of Kong Christian Den Femtis Norske Lov [King Christian V's Law of Norway] 15 April 1687.</p>		<p><b>References to legal sources:</b> Art. 5(1)(2) of Kong Christian Den Femtis Norske Lov [King Christian V's Law of Norway] 15 April 1687.</p>		<p><b>References to legal sources:</b> Art. 5(1)(2) of Kong Christian Den Femtis Norske Lov [King Christian V's Law of Norway] 15 April 1687.</p> <p>Rt. 1978 p. 1352 Høyesterett [Supreme Court] 17. November 1978.</p> <p>RG 1977 p. 311 Eidsivating [Eidsivating Court of Appeal] 1 November 1976.</p>	
<p><b>Explanations and nuances:</b> The article states the general principle of private autonomy within the limits of the law and decency for citizens with legal capacity. Further limits follow from statutory provisions concerning the content and form of contracts between spouses.</p> <p>See question 1.12.</p>		<p><b>Explanations and nuances:</b> The article states the general principle of private autonomy within the limits of the law and decency for citizens with legal capacity. Further limits follow from statutory provisions concerning the content and form of contracts between spouses, which are/were applicable also for contracts between registered partners.</p> <p>See questions 1.01 and 1.12.</p>		<p><b>Explanations and nuances:</b> The article states the general principle of private autonomy within the limits of the law and decency for citizens with legal capacity. This implies that it is doubtful whether contracts between partners of concubinage and (male) homosexual cohabitants would be accepted as long as such relationships were criminal offences. A ruling of the Supreme Court in 1978 presupposes the validity of contracts regarding joint ownership, in accordance with previous decisions of lower courts.</p> <p>See questions 1.01 and 1.12.</p>	

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 Yes 2009	2015 N/A 0000	2015 Yes 1993	2015 Yes 1991	2015 Yes 1991
	N/A 0000		N/A 0000	No 0000	No 0000
<b>References to legal sources:</b> Art. 31, 37, 42 - 55, 65 and 83 of lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.		<b>References to legal sources:</b> Art. 95(1) of lov om ekteskap [Marriage Act] 4 July 1991 nr. 47.  Art. 3 of lov om registrert partnerskap [the Registered Partnership Act] 30 April 1993 nr. 40.		<b>References to legal sources:</b> Art. 4 of Lov om rett til felles bolig og innbo når husstandsfellesskap opphører [Act relating to the right to the joint residence and household goods when a household community ceases to exist] 4 July 1991 nr. 45 (in force 1 October 1991).	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>                      The articles imply that rules applicable for spouses are/were also applicable for registered partners.                       See under Marriage.</p>		<p><b>Explanations and nuances:</b>                      The article states that when considering whether a member of a household shall obtain rights pursuant to the Act, agreements between the parties shall be taken into account. This implies that a contract between the parties is not automatically applicable.</p>	

Jurisdiction: **Norway**

Source: T. Eeg, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 1979	2015 Yes 2009	2015 N/A 0000	2015 Yes 1993	2015 Yes, but 2003	2015 Yes, but 2003
Yes, but 1965	N/A 0000		N/A 0000	No, but 1965	No, but 1965
<p><b>References to legal sources:</b> Art. 4(1)(4) of Lov om personnavn [Act of personal name] 7 June 2002 nr. 19 (in force 1 January 2003).</p> <p>Art. 4 of Lov om personnamn [Act of personal name] 29 May 1964 nr. 1 (in force 1 January 1965, repealed by law of 7 June 2002 nr. 19).</p>		<p><b>References to legal sources:</b> See question 1.12.</p>		<p><b>References to legal sources:</b> Art. 4(2) of Lov om personnavn [Act of personal name] 7 June 2002 nr. 19 (in force 1 January 2003).</p> <p>Art. 5 of Lov om personnamn [Act of personal name] 29 May 1964 nr. 1 (in force 1 January 1965, repealed by law of 7 June 2002 nr. 19).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>            The articles imply that a person can/could, but are/were not obliged to, take the other spouse's surname, unless this is acquired by a former marriage or cohabitation. Before art. 4 of the Act of 1964 was amended by law of 8 June 1979 nr. 39, the wife would automatically get her husband's surname unless she reported to the authority that she would keep the surname she had as single.</p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            A cohabitant who has lived together for at least two years or has joint children with the other, can choose the other's surname within the same limits as for spouses, albeit only with the other's consent.</p> <p>According to art. 5 in the Act of 1964, anyone could in principle apply for a permit from the ministry (delegated to the county governor) to change one's surname. According to art. 7, such permit should be granted if the name in question was considered to be among the more ordinary names, and there were no particular reasons to deny it.</p>	

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 No 0000	2015 No 2009	2015 N/A 0000	2015 No 1993	2015 No, but 1972	2015 No, but 1981
	N/A 0000		N/A 0000	No 0000	Doubt 1978
					No 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><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b></p>		<p><b>Explanations and nuances:</b>            It is part of the common definition of "cohabitation" that the partners live together. However, there are statutory provisions regarding i.a. inheritance implying that it is not necessarily disqualifying if the parties are living apart for a while; it will depend on the reason for living apart.</p> <p>From 1972, unmarried mothers would not be entitled to the social security benefits mentioned in question 1.01, if she lived together with the child's father. Albeit disputable whether it is adequate to consider this a "duty" to live together, it implicates that living together from this time on was a prerequisite for certain legal consequences.</p> <p>See question 1.01 for both different and same-sex couples.</p>	

Jurisdiction: **Norway**

Source: **T. Eeg**, "Formalisation of legal family formats in Norway". 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-NO-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 No 1974	2015 No 2009	2015 N/A 0000	2015 No 1993	2015 No 0000	2015 No 0000
No, but 0000	N/A 0000		N/A 0000		
<b>References to legal sources:</b> Rt. 1974 p. 1121 Høyesterett [Supreme Court] 9 November 1974.		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> It was a disputed interpretation of the Law whether or not one could be convicted for rape within marriage before the Supreme Court decision of 1974. However, even if there seemingly are no earlier convictions, this does not mean that there was a legal obligation for a spouse to have sex with the other spouse.		<b>Explanations and nuances:</b>		<b>Explanations and nuances:</b>	