

# Income, troubles and legal family formats in Poland

by Dorota Pudzianowska <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 2 – Income and troubles)

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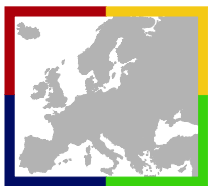


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# FamiliesAndSocieties

## 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 Poland

The answers concerning Poland 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 Poland

by Krzysztof Smiszek (Section 1)

#### Income, troubles and legal family formats in Poland

by Dorota Pudzianowska (Section 2)

#### Parenting and legal family formats in Poland

by Dorota Pudzianowska (Section 3)

#### Migration and legal family formats in Poland

by Dorota Pudzianowska (Section 4)

#### Splitting up and legal family formats in Poland

by Krzysztof Smiszek (Section 5)

#### Death and legal family formats in Poland

by Krzysztof Smiszek (Section 6)

So this paper is based on **Section 2 (Income and troubles)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

**2.1 Lower income tax**

**2.2 Social benefits**

**2.3 Health insurance**

**2.4 Care between partners**

**2.5 Care for a parent**

**2.6 Next of kin**

**2.7 Domestic violence**

**2.8 Criminal procedure**

**2.9 General background regarding income and troubles**

In the following pages of this paper, first the answer to question 2.9 is presented, followed by the answers to questions 2.1 to 2.8.

**2.09 - General background regarding income and troubles (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, family support, etc.) that may be relevant for the understanding of your answers above regarding income and troubles, then please do so here.

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Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.01 - Lower income tax**

Can a relationship of this type result in lower income tax than for two individuals without a partner?

| Marriage   |                     | Registered partnership              |                     | Cohabitation                        |                    |
|--|---------------------|-------------------------------------|---------------------|-------------------------------------|--------------------|
| diff.-sex  | same-sex            | diff.-sex                           | same-sex            | diff.-sex                           | same-sex           |
| 2015<br>Yes<br>1991  | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>No<br>1991                  | 2015<br>No<br>1991 |
| ?<br>0000  |                     |                                     |                     | ?<br>0000                           | ?<br>0000          |
| <b>References to legal sources:</b><br>Art. 6.2 Personal Income Tax Act of 26 July 1991<br>[ustawa o podatku dochodowym od osób fizycznych, Dz.U.2012.361 j.t.]. |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b> |                    |
| <b>Explanations and nuances:</b>   |                     | <b>Explanations and nuances:</b>    |                     | <b>Explanations and nuances:</b>    |                    |

Jurisdiction: **Poland**

Source: D. Pudzianowska, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.02 - Social benefits**

When one partner (long-term unemployed or even never having been employed at all) would be entitled to a basic social benefit, will the income of the other partner then be taken into consideration and will it possibly result in loss or reduction of this entitlement?

| Marriage   |                     | Registered partnership              |                     | Cohabitation  |                     |
|--|---------------------|-------------------------------------|---------------------|---|---------------------|
| diff.-sex  | same-sex            | diff.-sex                           | same-sex            | diff.-sex   | same-sex            |
| 2015<br>Yes<br>2004  | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>Yes<br>2004   | 2015<br>Yes<br>2004 |
| ?<br>0000  |                     |                                     |                     | ?<br>0000   | ?<br>0000           |
| <b>References to legal sources:</b><br>Art. 8.1(2) Social Aid Act of 12 March 2004 [Ustawa o pomocy społecznej, Dz.U. 2015.163 j.t.].  |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b><br>Art. 6.14 Social Aid Act of 12 March 2004 [Ustawa o pomocy społecznej, Dz.U. 2015.163 j.t.].   |                     |
| <b>Explanations and nuances:</b><br>The entitlement to basic social benefit is dependent on an income per person in a family. Therefore income of the other partner might result in loss of an entitlement to basic social benefit by the other partner. |                     | <b>Explanations and nuances:</b>    |                     | <b>Explanations and nuances:</b><br>The entitlement to basic social benefit is dependent on an income per person in a family. The term "family" is used in the Social Aid Act also in relation to persons who are in de facto partnership, living together and having a common household. |                     |

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.03 - Health insurance**

Is the amount of money that the two partners in this type of relationship would have to pay for (public or private) health insurance, normally smaller than what two individuals without a partner would have to pay?

| Marriage  |                     | Registered partnership              |                     | Cohabitation  |                    |
|---|---------------------|-------------------------------------|---------------------|---|--------------------|
| diff.-sex   | same-sex            | diff.-sex                           | same-sex            | diff.-sex   | same-sex           |
| 2015<br>No, but<br>2004   | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>No<br>2004  | 2015<br>No<br>2004 |
| ?<br>0000   |                     |                                     |                     | ?<br>0000   | ?<br>0000          |
| <b>References to legal sources:</b><br>Act on Publicly Funded Healthcare Benefits<br>[Ustawa o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych z dnia 27 sierpnia 2004, Dz. U. 2015.581 j.t.]. |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b><br>Act on Publicly Funded Healthcare Benefits<br>[Ustawa o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych z dnia 27 sierpnia 2004, Dz. U. 2015.581 j.t.]. |                    |

| Marriage  |          | Registered partnership                  |          | Cohabitation                            |          |
|---|----------|---|----------|---|----------|
| diff.-sex   | same-sex | diff.-sex                               | same-sex | diff.-sex                               | same-sex |
| <p><b>Explanations and nuances:</b><br/>                     The amount of money that the two partners have to pay for a public insurance is the same as two individuals without a partner would have to pay because it depends on an income. However it is possible for one married partner who does not work to be included in a health insurance of his/her husband/wife (art. 5.3(b) Act on Publicly Funded Healthcare Benefits). For private health insurance it all depends on the insurance company.</p> |          | <p><b>Explanations and nuances:</b></p> |          | <p><b>Explanations and nuances:</b></p> |          |



Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.04 - Care between partners**

In case one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

| Marriage   |                     | Registered partnership                     |                     | Cohabitation   |                    |
|--|---------------------|--|---------------------|--|--------------------|
| diff.-sex  | same-sex            | diff.-sex                                  | same-sex            | diff.-sex  | same-sex           |
| 2015<br>Yes<br>1999  | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                        | 2015<br>N/A<br>0000 | 2015<br>No, but<br>1999  | 2015<br>No<br>1999 |
| ?<br>0000  |                     |  |                     | ?<br>0000  | ?<br>0000          |
| <p><b>References to legal sources:</b><br/>                     Art. 32.1(3) in conjunction with 32.2 Social Insurance Law of 25 June 1999 [Ustawa o świadczeniach pieniężnych z ubezpieczenia społecznego w razie choroby i macierzyństwa, Dz. U. 2014.159 j.t.].</p> |                     | <p><b>References to legal sources:</b></p> |                     | <p><b>References to legal sources:</b><br/>                     Art. 32.1(3) in conjunction with 32.2 Social Insurance Law of 25 June 1999 [Ustawa o świadczeniach pieniężnych z ubezpieczenia społecznego w razie choroby i macierzyństwa, Dz. U. 2014.159 j.t.].</p> |                    |
| <p><b>Explanations and nuances:</b><br/>                     The spouse has a right to paid leave.</p>   |                     | <p><b>Explanations and nuances:</b></p>    |                     | <p><b>Explanations and nuances:</b><br/>                     If partners have a child together there is the possibility to take paid leave to give care to such a partner if they live in a common household.</p>  |                    |

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.05 - Care for a parent**

In case the parent of one partner is in need of care, does the other partner then have a statutory right to paid or unpaid leave to give that care?

| Marriage  |                     | Registered partnership              |                     | Cohabitation  |                    |
|---|---------------------|-------------------------------------|---------------------|---|--------------------|
| diff.-sex   | same-sex            | diff.-sex                           | same-sex            | diff.-sex   | same-sex           |
| 2015<br>Yes<br>1999   | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>No<br>1999  | 2015<br>No<br>1999 |
| ?<br>0000   |                     |                                     |                     | ?<br>0000   | ?<br>0000          |
| <b>References to legal sources:</b><br>Art. 32.1(3) in conjunction with 32.2 Social Insurance Law of 25 June 1999 [Ustawa o świadczeniach pieniężnych z ubezpieczenia społecznego w razie choroby i macierzyństwa, Dz. U. 2014.159 j.t.]. |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b><br>Social Insurance Law of 25 June 1999 [Ustawa o świadczeniach pieniężnych z ubezpieczenia społecznego w razie choroby i macierzyństwa, Dz. U. 2014.159 j.t.]. |                    |
| <b>Explanations and nuances:</b><br>The spouse has a right to paid leave.   |                     | <b>Explanations and nuances:</b>    |                     | <b>Explanations and nuances:</b>  |                    |

Jurisdiction: **Poland**

Source: D. Pudzianowska, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.06 - Next of kin**

In case of accident or illness of one partner, is the other partner considered as next of kin for medical purposes (even without power of attorney)?

| Marriage  |                     | Registered partnership              |                     | Cohabitation  |                     |
|---|---------------------|-------------------------------------|---------------------|---|---------------------|
| diff.-sex   | same-sex            | diff.-sex                           | same-sex            | diff.-sex   | same-sex            |
| 2015<br>Yes<br>2008   | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>Yes<br>2008   | 2015<br>Yes<br>2008 |
| ?<br>0000   |                     |                                     |                     | ?<br>0000   | ?<br>0000           |
| <b>References to legal sources:</b><br>Art. 3.1(2) Patients' Rights Act of 6 November 2008<br>[Ustawa o prawach pacjenta i Rzeczniku Praw Pacjenta, Dz.U. 2012.159 j.t.]. |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b><br>Art. 3.1(2) Patients' Rights Act of 6 November 2008<br>[Ustawa o prawach pacjenta i Rzeczniku Praw Pacjenta, Dz.U. 2012.159 j.t.]. |                     |
| <b>Explanations and nuances:</b>  |                     | <b>Explanations and nuances:</b>    |                     | <b>Explanations and nuances:</b><br>The definition of 'next of kin' [osoba bliska] includes 'person in durable partnership' [osoba w trwałym pożyciu].                    |                     |

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.07 - Domestic violence**

When one partner uses violence against the other partner, does specific statutory protection apply?

| Marriage   |                     | Registered partnership                     |                     | Cohabitation   |                       |
|--|---------------------|--|---------------------|--|-----------------------|
| diff.-sex  | same-sex            | diff.-sex                                  | same-sex            | diff.-sex  | same-sex              |
| 2015<br>Yes<br>1997  | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                        | 2015<br>N/A<br>0000 | 2015<br>Yes<br>1997  | 2015<br>Doubt<br>1997 |
| ?<br>0000  |                     |  |                     | ?<br>0000  | ?<br>0000             |
| <p><b>References to legal sources:</b><br/>                     Art. 207 in conjunction with 115.11 Criminal Code of 6 June 1997 [Kodeks karny, Dz.U. 1997 nr 88 poz. 553].<br/><br/>                     Act on Counteracting Domestic Violence of 29 July 2005 [Ustawa o przeciwdziałaniu przemocy w rodzinie, Dz. U. 2015.1390 j.t.].</p> |                     | <p><b>References to legal sources:</b></p> |                     | <p><b>References to legal sources:</b><br/>                     Art. 207 in conjunction with 115.11 Criminal Code of 6 June 1997 [Kodeks karny, Dz.U. 1997 nr 88 poz. 553].<br/><br/>                     Act on Counteracting Domestic Violence of 29 July 2005 [Ustawa o przeciwdziałaniu przemocy w rodzinie, Dz. U. 2015.1390 j.t.].</p> |                       |

| Marriage                         |          | Registered partnership           |          | Cohabitation   |          |
|----------------------------------|----------|----------------------------------|----------|--|----------|
| diff.-sex                        | same-sex | diff.-sex                        | same-sex | diff.-sex  | same-sex |
| <b>Explanations and nuances:</b> |          | <b>Explanations and nuances:</b> |          | <b>Explanations and nuances:</b><br>There are different views expressed in the doctrine concerning the question if a homosexual partner who is in a common household can be regarded as 'next of kin' ["osoba najbliższa"] in the meaning of art. 115.11 Criminal Code (see Andrzej Marek, Komentarz do kodeksu karnego, Komentarz do art. 115.11 kk [Annotated Criminal Code, commentary to art. 115.11], LEX). |          |

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Income, troubles and legal family formats in Poland". 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-PL-Section2.pdf](#) (please use this full citation when citing any information from this table).

Section: **2 - Income and Troubles**

Question: **2.08 - Criminal procedure**

In case of a criminal prosecution against one partner, can the other partner then refuse to testify against the partner who is being prosecuted?

| Marriage  |                     | Registered partnership              |                     | Cohabitation  |                       |
|---|---------------------|-------------------------------------|---------------------|---|-----------------------|
| diff.-sex   | same-sex            | diff.-sex                           | same-sex            | diff.-sex   | same-sex              |
| 2015<br>Yes<br>1997   | 2015<br>N/A<br>0000 | 2015<br>N/A<br>0000                 | 2015<br>N/A<br>0000 | 2015<br>Yes<br>1997   | 2015<br>Doubt<br>1997 |
| ?<br>0000   |                     |                                     |                     | ?<br>0000   | ?<br>0000             |
| <b>References to legal sources:</b><br>Art. 182.1 Code of Criminal Procedure of 6 June 1997 [Kodeks Postępowania Karnego, Dz.U. 1997 nr 89 poz. 555] in conjunction with 115.11 Criminal Code of 6 June 1997 [Kodeks karny, Dz.U. 1997 nr 88 poz. 553]. |                     | <b>References to legal sources:</b> |                     | <b>References to legal sources:</b><br>Art. 182.1 Code of Criminal Procedure of 6 June 1997 [Kodeks Postępowania Karnego, Dz.U. 1997 nr 89 poz. 555] in conjunction with 115.11 Criminal Code of 6 June 1997 [Kodeks karny, Dz.U. 1997 nr 88 poz. 553]. |                       |

| 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><br/>                     There are different views expressed in the doctrine concerning the question if a homosexual partner who is in a common household can be regarded as 'next of kin' ["osoba najbliższa"] in the meaning of art. 115.11 Criminal Code (see Andrzej Marek, Komentarz do kodeksu karnego, Komentarz do art. 115.11 kk [Annotated Criminal Code, commentary to art. 115.11], LEX). The issue whether same-sex partner should be treated equally to the different-sex partner in case of criminal procedure should be the subject of further clarification and guidance by the courts, including the Supreme Court. The present practice in this field is relatively unknown.</p> |          |