

Parenting and legal family formats in Poland

by Dorota Pudzianowska 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 3 – Parenting)

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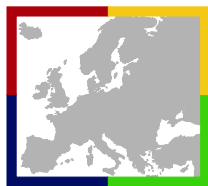
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The six sections of the questionnaire

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 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):

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 3 (Parenting)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

3.1 Assisted insemination

3.2 IVF

3.3 Surrogacy

3.4 Legal parenthood

3.5 Parental authority

3.6 Parental leave for both parents

3.7 Parental leave for partners

3.8 Grandparents

3.9 Second-parent adoption

3.10 Joint adoption

3.11 Individual adoption

3.12 General background regarding parenting

3.13 Single parenting

3.14 Multiple parenting

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

3.12 - General background regarding parenting (Open question)

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

3.13 - Single parenting (Open question)

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

3.14 - Multiple parenting (Open question)

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

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Medically assisted insemination and IVF has been restricted to marriages and heterosexual couples by the new Law on Treatment of Infertility [Ustawa o leczeniu bezpłodności] which will enter into force in November 2015.

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Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.01 - Assisted insemination**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2015	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2015	2015 No 2015
Yes, but 0000				Doubt 0000	Doubt 0000
References to legal sources: Art. 32.2 of Law on Treatment of Infertility of 25 June 2015 [Ustawa o leczeniu niepłodności, Dz. U. 2015.1087].		References to legal sources:		References to legal sources: Art. 32.2 of Law on Treatment of Infertility of 25 June 2015 [Ustawa o leczeniu niepłodności, Dz. U. 2015.1087]	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The Law on Treatment of Infertility entered into force on 1 November 2015.</p> <p>Before 2015 these issues were not regulated by the statute and accessibility of procedures depended on the decision of personnel at each infertility clinic.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Same-sex couples as well as single women are excluded by the Law on Treatment of Infertility from possibility to use assisted insemination using sperm of donor. According to the statute either a husband of a woman or heterosexual partner has to make a declaration concerning future parenthood before any medical procedure can start.</p> <p>Before November 2015 single women could have undergone the procedure of assisted insemination (women in same sex couples used this possibility).</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.02 - IVF**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2015	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 2015	2015 No 2015
Yes, but 0000				Doubt 0000	Doubt 0000
References to legal sources: Art. 20 of Law on Treatment of Infertility of 25 June 2015 [Ustawa o leczeniu niepłodności, Dz. U. 2015.1087].		References to legal sources:		References to legal sources: Art. 20 of Law on Treatment of Infertility of 25 June 2015 [Ustawa o leczeniu niepłodności, Dz. U. 2015.1087].	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: See question 3.1.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Same-sex couples are excluded from possibility to use IVF. According to the statute either a husband of a woman or a heterosexual partner has to make a declaration concerning future parenthood before the procedure can take place.</p> <p>Before November 2015 single women could have undergone the procedure of IVF (women in same sex couples used this possibility).</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.03 - Surrogacy**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
References to legal sources: Art. 619 of Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		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: Surrogacy is not regulated and surrogacy arrangements are not enforceable. Woman that gives birth is considered a mother according to the Polish law. Article 619 of Family and Custody Code stipulates that "the mother of a child is the biological mother who gave birth". The statute thus requires that the child-bearing person is to be indicated as the mother in the birth certificate. No arrangements can interfere with the statutory definition of motherhood. The Vital Statistics Office, on the other hand, is obligated to record the legal mother in the birth certificate. Any misrepresentation is not only criminal in respect of the record's authority but is also grounds for the legal mother to challenge the incorrect birth certificate at any time.</p> <p>The state of the law in respect of the definition of motherhood and its legal consequences might not directly pertain to surrogacy agreements but essentially invalidates any attempt to create a binding agreement between the surrogate mother and the couple seeking to procreate through surrogacy. Even though the civil code does provide for the principle of freedom of contract, the Civil Code and the Family and Custody Code, as well as other statutes, suggest that any surrogacy contract should be considered null and void.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.04 - Legal parenthood**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 1964	2015 No 0000
<p>References to legal sources: Art. 62.1 Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].</p>		<p>References to legal sources:</p>		<p>References to legal sources: Art. 73 Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].</p>	
<p>Explanations and nuances: In general the husband automatically becomes legal parent if a child is born in a marriage or 300 days after its termination.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: A man who is the biological father can become a legal parent by way of recognition.</p>	

Jurisdiction: **Poland**

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Section: **3 - Parenting**

Question: **3.05 - Parental authority**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 1964	2015 No 1964
<p>References to legal sources: Art. 93(1) Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].</p>		<p>References to legal sources:</p>		<p>References to legal sources: Art. 93(1) Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].</p>	
<p>Explanations and nuances: Parental authority is exercised by parents. The child would have to be adopted by the other partner in order for him/her to have parental authority.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances:</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1999	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 1999	2015 No 1999
? 0000				? 0000	? 0000
References to legal sources: Art. 32.1 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.].		References to legal sources:		References to legal sources: Art. 32.1 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.].	
Explanations and nuances: Either the mother or the father can take parental leave.		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1999	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 1999	2015 No 1999
? 0000				? 0000	? 0000
<p>References to legal sources: Art. 32.1 in conjunction with art. 32.3 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>References to legal sources:</p>		<p>References to legal sources: Art. 32.1 in conjunction with art. 32.3 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>Explanations and nuances: According to art. 32.3 the term "children" in art. 32.1 should be understood as children of the insured person as well as of his/her married partner.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: According to art. 32.3 the term "children" in art. 32.1 should be understood as children of the insured person as well as of his/her married partner.</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.08 - Grandparents**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 1964	2015 No 1964
References to legal sources: Art. 113 ⁶ Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		References to legal sources: Art. 113 ⁶ Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		References to legal sources: Art. 113 ⁶ Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].	
Explanations and nuances:		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

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

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 1964	2015 No 1964
References to legal sources: Art. 119.1, 119^1a Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		References to legal sources:		References to legal sources: Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].	
Explanations and nuances: This is so called "targeted adoption" where a procedure is easier.		Explanations and nuances:		Explanations and nuances: Through regular adoption procedure (i.e. not an easier procedure like in case of marriage).	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.10 - Joint adoption**

Can partners jointly adopt a child?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 1964	2015 No 1964
References to legal sources: Art. 115(1) Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		References to legal sources:		References to legal sources: Art. 115(1) Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].	
Explanations and nuances: Only married partners can jointly adopt a child.		Explanations and nuances:		Explanations and nuances: Only married partners can jointly adopt a child.	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Parenting 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, [LawsAndFamilies-PL-Section3.pdf](#) (please use this full citation when citing any information from this table).

Section: **3 - Parenting**

Question: **3.11 - Individual adoption**

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

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 Yes 1964	2015 Doubt 1964
References to legal sources: Art. 116 Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].		References to legal sources:		References to legal sources: Art. 114 ¹ Family and Custody Code of 25 February 1964 [Kodeks rodzinny i opiekuńczy, Dz.U. 1964 nr 9 poz. 59].	
Explanations and nuances: The other married partner has to agree.		Explanations and nuances:		Explanations and nuances:	