

Migration 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 4 – Migration)

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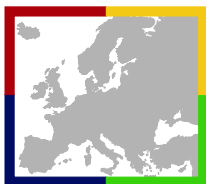
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Disclaimer

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. 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 4 (Migration)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 4.1 Partner of national citizen
- 4.2 Partner of national citizen (foreign status)
- 4.3 Partner of (non-EU) foreigner
- 4.4 Partner of EU citizen (foreign status)
- 4.5 Foreign status as impediment to marry
- 4.6 Foreign status and inheritance
- 4.7 Citizenship
- 4.8 Recognition of joint adoption
- 4.9 Recognition of second-parent adoption
- 4.10 General background regarding migration

In the following pages of this paper, first the answer to question 4.10 is presented, followed by the answers to questions 4.1 to 4.9.

4.10 - General background regarding migration (Open question)

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

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Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.01 - Partner of national citizen**

When one partner is a residing national citizen, while the other is a foreigner from another continent, will the foreign partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside. As to the meaning of 'residing', see section c of the [Guidance for experts answering questions in the questionnaire](#).)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No, but 2014	2015 No, but 2014
?				?	?
References to legal sources: Art. 158.1(1) of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013.1650].		References to legal sources:		References to legal sources: Art. 160.3 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013.1650].	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Temporary residence permit.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: A temporary residence permit may be issued to a foreigner showing 'family life' within the meaning of the European Convention on Human Rights with a Polish citizen. Such a foreigner has to have the healthcare insurance and regular income.</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.02 - Partner of national citizen (foreign status)**

When one partner is a residing national citizen, while the other partner is a foreigner from another continent, and this couple married/registered in the country of the foreigner, will the foreign partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 No 2001	2015 No 1998	2015 No 1989	X	X
? 0000	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 158.1(1) of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].		References to legal sources:			
Explanations and nuances: Temporary residence permit.		Explanations and nuances:			

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.03 - Partner of (non-EU) foreigner**

When both partners are foreigners from another continent, and one of them is residing in the country, will the other partner then have a residence entitlement/eligibility?

(Please assume that they married/registered/cohabited in the country where they now want to reside.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 2014	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No, but 2014	2015 No, but 2014
? 0000				? 0000	? 0000
References to legal sources: Art. 159 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].		References to legal sources:		References to legal sources: Art. 187.6 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Temporary residence permit. The foreign partner who already resides in the country has to fulfill certain conditions (for example: having residence in Poland for at least 2 years on temporary residence permits, having healthcare insurance, regular income).</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Temporary residence permit may be issued on two conditions: (1) a foreigner's stay on the Polish territory is necessary because of the need to protect his/her family life within the meaning of the European Convention on Human Rights and (2) such a foreigner stays in Poland illegally.</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.04 - Partner of EU citizen (foreign status)**

When one partner is a foreign EU citizen who is residing in the country, while the other is a foreigner from another continent, and this couple married/registered/cohabited in the country of the EU citizen, will the non-EU partner then have a residence entitlement/eligibility?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2014	2015 No, but 2014	2015 No, but 2014	2015 No, but 2014	2015 No, but 2014	2015 No, but 2014
? 0000	? 2001	? 1998	? 1989	? 0000	? 0000
	N/A 0000	N/A 0000	N/A 0000		

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 15.1(1), art. 18 in conjunction with art. 2.4(a) of Law on the entry, stay and exit from the territory of the Republic of Poland by the EU nationals and members of their family of 14 July 2006 [ustawa o wjeździe na terytorium Rzeczypospolitej Polskiej, pobycie oraz wyjeździe z tego terytorium obywateli państw członkowskich Unii Europejskiej i członków ich rodzin, Dz. U. 2014.1525 j.t.].</p> <p>Art. 160.3 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].</p>		<p>References to legal sources: Art. 160.3 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].</p>		<p>References to legal sources: Art. 160.3 of Law on Foreigners of 12 December 2013 [Ustawa o cudzoziemcach, Dz. U. 2013 nr 1650].</p>	
<p>Explanations and nuances: A temporary residence permit may be issued to a married same-sex partner who "has family life" in the meaning of the European Convention on Human Rights with an EU citizen. Such a foreigner has to have a health insurance and a regular income.</p>		<p>Explanations and nuances: A temporary residence permit may be issued to a foreigner who "has family life" in the meaning of the European Convention on Human Rights with an EU citizen. Such a foreigner has to have a health insurance and a regular income.</p>		<p>Explanations and nuances: A temporary residence permit may be issued to a foreigner who "has family life" in the meaning of the European Convention on Human Rights with an EU citizen. Such a foreigner has to have a health insurance and a regular income.</p>	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.05 - Foreign status as impediment to marry**

When the couple got married or registered abroad, will this relationship then be recognised as an impediment to marry someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1997	2015 No 2001	2015 No 1998	2015 No 1989	X	X
? 0000	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 206 of Penal Code of 6 June 1997 [Ustawa Kodeks Karny, Dz.U. 1997 nr. 88 poz. 553].		References to legal sources: Art. 206 of Penal Code of 6 June 1997 [Ustawa Kodeks Karny, Dz.U. 1997 nr. 88 poz. 553].			
Explanations and nuances: Only different-sex marriage registered abroad will be recognised as an impediment to marry someone else [see commentary to the art. 206 of the Penal Code by Maria Szewczyk, LEX].		Explanations and nuances: Only different-sex marriage registered abroad will be recognised as an impediment to marry someone else [see commentary to the art. 206 of the Penal Code by Maria Szewczyk, LEX].			

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.06 - Foreign status and inheritance**

When the couple got married or registered abroad, will this relationship then be recognised as regards inheritance in the absence of a testament?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 No 2001	2015 No 1998	2015 No 1989	X	X
	N/A 0000	N/A 0000	N/A 0000	X	X
References to legal sources: Art. 931 and 932 Civil Code of 23 April 1964 [Kodeks Cywilny, Dz.U. 1964 nr 16 poz. 93].		References to legal sources: Art. 931 and 932 Civil Code of 23 April 1964 [Kodeks Cywilny, Dz.U. 1964 nr 16 poz. 93].			
Explanations and nuances: The term "marriage" in Civil Code is understood in the light of Polish law, namely art. 18 of the Constitution of the Republic of Poland where marriage is defined as the union between man and woman.		Explanations and nuances: The term "marriage" in Civil Code is understood in the light of Polish law, namely art. 18 of the Constitution of the Republic of Poland where marriage is defined as the union between man and woman.			

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.07 - Citizenship**

Does a relationship of this type make it easier for a foreign partner to obtain citizenship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2012	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 2012	2015 No 2012
? 0000				? 0000	? 0000
References to legal sources: Art. 30.1(2)(a) Act on Polish nationality of 2 April 2009 [Ustawa o obywatelstwie polskim, Dz.U. 2012 poz. 161].		References to legal sources:		References to legal sources:	
Explanations and nuances:		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.08 - Recognition of joint adoption**

When the partners have jointly adopted a child while residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 ? 1964	2015 ? 1964
References to legal sources: Art. 1145 Code of Civil Procedure of 17 November 1964 [Kodeks postępowania cywilnego, Dz.U. 1964 nr 43, poz. 296].		References to legal sources:		References to legal sources:	
Explanations and nuances: A foreign adoption has to be recognised by the Polish court.		Explanations and nuances:		Explanations and nuances:	

Jurisdiction: **Poland**

Source: **D. Pudzianowska**, "Migration 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-Section4.pdf](#) (please use this full citation when citing any information from this table).

Section: **4 - Migration**

Question: **4.09 - Recognition of second-parent adoption**

When one partner has become the second parent of a child of the other partner, by way of adoption while the partners were residing abroad, will that foreign adoption then be recognised as regards legal parenthood?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1964	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 ? 1964	2015 ? 1964
References to legal sources: Art. 1145 Code of Civil Procedure of 17 November 1964 [Kodeks postępowania cywilnego, Dz.U. 1964 nr 43, poz. 296].		References to legal sources:		References to legal sources:	
Explanations and nuances: A foreign adoption has to be recognised by the Polish court.		Explanations and nuances:		Explanations and nuances:	