

Income, troubles and legal family formats in Portugal

by Miguel Freitas¹

The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples

Edited by Kees Waaldijk,² Marie Digoix,³ Natalie Nikolina,² Giuseppe Zago,² Daniel Damonzé,² Arianna Caporali,³ Kamel Nait Abdellah³

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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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² [Grotius Centre for International Legal Studies](#), Leiden University, Netherlands, www.leiden.edu.



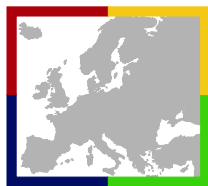
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



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FamiliesAndSocieties

Disclaimer

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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 Portugal

The answers concerning Portugal 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 Portugal by Carlos Pamplona Côrte-Real (Section 1)

Income, troubles and legal family formats in Portugal by Miguel Freitas (Section 2)

Parenting and legal family formats in Portugal by Miguel Freitas (Section 3)

Migration and legal family formats in Portugal by Miguel Freitas (Section 4)

Splitting up and legal family formats in Portugal by Carlos Pamplona Côrte-Real (Section 5)

Death and legal family formats in Portugal by Carlos Pamplona Côrte-Real (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: **Portugal**

Source: **M. Freitas**, "Income, troubles and legal family formats in Portugal". 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-PT-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 Yes 1989	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 1999	2015 Yes 2001
Yes 1980	N/A 0000			No 0000	No 0000
? 0000					

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Decree-Law No. 183-F/80, of 9 June 1980, that reformed the personal income tax legislation then in force.</p> <p>Decree-Law No. 442-A/88, of 30 November 1988, enacting the Personal Income Tax Code and setting up the current system of personal income taxation.</p> <p>Law No. 9/2010, of 31 May 2010, opening up civil marriage to same-sex couples.</p> <p>Law No. 82-E/2014, of 31 December 2014, reforming the Personal income tax Code.</p>		<p>References to legal sources:</p>		<p>References to legal sources: Law No. 135/99, of 28 August 1999, adopting measures to protect different-sex cohabiting couples (de facto unions).</p> <p>Law No. 30-G/2000, of 29 December 2000, reforming personal income taxation and adopting other measures aimed at preventing tax evasion and fraud.</p> <p>Law No. 7/2001, of 11 May 2001, adopting measures to protect (different-sex and same-sex) cohabiting couples (de facto unions).</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Succintly put, since 1980 different-sex married couples benefited from lower rates under the predecessor of the current personal income tax (the then so-called "imposto complementar": see art. 1 of Decree-Law No. 183-F/80, of 9 June 1980).</p> <p>Under the current income tax system, the spouses' income is aggregated for purposes of income-tax assessment and then split, which, in the majority of cases, results in a lower joint income tax. There can be cases, however, in which the income tax of a couple ends up by being higher than the income tax that each of the spouses would pay individually on the basis of his or her personal income.</p> <p>From 2015 onwards, the amount of income tax that will be paid by a family will also take in consideration the total number of persons forming the household (see art. 69 of the Personal Income Tax Code, as amended by Law No. 82-E/2014, of 31 December 2014).</p> <p>Civil marriage was only opened to same-sex couples in 2010 (by Law No. 9/2010, of 31 May 2010). Until then, same-sex partners were subject to individual taxation only as they wouldn't be legally considered a married couple.</p> <p>However, since 2001 same-sex couples could benefit from the more favourable treatment allowed by law to married couples if they qualified as a de facto union (cohabiting couple).</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: From 1999 onwards, different-sex cohabiting couples (living together for more than two years) were given the possibility of availing themselves of the rules concerning income tax applicable to different-sex married couples (art. 3(d) of the Law No. 135/99, of 28 August 1999); this possibility was extended to same-sex couples in 2001 (art. 3(d) of Law No. 7/2001 of 11 May 2001).</p> <p>According to art. 11 of Law No. 7/2001, the rules with fiscal repercussion only entered into force in 2002; although Law No. 135/99, of 26 August 1999, contained no such proviso, it was dependent on the Government preparing the necessary regulations to give it full effect. In what regards income taxation, the necessary implementing measures were only enacted by Law No. 30-G/2000, of 29 December 2000 (see art. 2, adding a new art. 14-A to the Personal Income Tax Code).</p>	

Jurisdiction: **Portugal**

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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 Yes 1999	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 2006	2015 Yes 2006
? 0000	N/A 0000			No 1999	No 2001
				No 0000	No 0000
References to legal sources: Decree-Law No. 119/99, of 14 April 1999, repealed by Decree-Law No. 220/2006, of 3 November 2006, as subsequently amended, regarding unemployment benefits.		References to legal sources:		References to legal sources: See the legislation mentioned under the heading "marriage".	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Given the number of benefits the Portuguese Social Security pays, and the high number of changes in legislation that have occurred regularly during the last few decades (including the "emergency" legislation that was enacted due to the current economic crisis the country is going through), it is impossible to give an accurate answer to this question covering the period from the 1970's (when the Portuguese Social Security, in its modern form, was implemented) till now.</p> <p>As the regulations regarding this matter stand, and concerning the more generous unemployment benefits (the so-called "subsídio de desemprego"), which is paid to a beneficiary that has worked for the period of time statutorily prescribed and has involuntarily lost his/her job and is unable to obtain a new one, the amount of the unemployment benefits can be enhanced, but not reduced, under certain conditions, namely when the unemployed person's spouse or partner is also out of a job. If we consider this benefit specifically, therefore, the answer to the present question is "No".</p> <p>There is, however, a benefit called "subsídio social de desemprego" (which roughly translates as "social unemployment benefits"), which is paid when the full unemployment benefits cannot be paid due to the lack of the required requisites (but not without a previous period of work by the beneficiary but which is insufficient to warrant access to the "subsídio de desemprego"), or have already been paid in full and the beneficiary still hasn't been able to obtain a new employment. This "subsídio" is conditioned by a certain income per capita of the unemployed person's household. In this case, the level of income of the unemployed person's spouse or partner will be taken into account, and can determine a reduction, or even exclusion, in the payment of the "subsídio social de desemprego" that would otherwise be due (arts. 24(1)(2) and 25 of Decree-Law No. 220/2006, of 3 November 2006, as lastly amended by Decree-Law No. 64/2012, of 15 March 2012; the previous statute on this matter, Decree-Law No. 119/99, of 4 April 1999, contained similar provisions).</p> <p>The rationale for this is to be found in the idea of solidarity that should exist among family members, as the "subsídio social de desemprego" is a social benefit that is paid largely irrespective of the previous contributions made by the beneficiary to the Social Security system, and so public funds won't be used unless when absolutely necessary.</p> <p>See also, as regards same-sex marriage, the observations made to question 2.1.</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: See the observations made under the heading "marriage".</p> <p>Although since 1999 different-sex cohabiting couples, and since 2001 same-sex cohabiting couples, were legally recognised under Portuguese Law, only after the coming into force of Decree-Law No. 220/2006, of 3 November 2006, explicit mention to cohabiting couples was included in the legislation concerning the "subsídio social de desemprego" providing for the consideration of the income of the unemployed worker's partner in the determination of the amount of the "subsídio".</p>	

Jurisdiction: **Portugal**

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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 No, but 1983	2015 No, but 2010	2015 N/A 0000	2015 N/A 0000	2015 No, but 2005	2015 No, but 2005
? 0000	N/A 0000			No 0000	No 0000
<p>References to legal sources: For the public "health insurance" schemes:</p> <p>Decree-Law No. 118/83, of 25 February 1983, as subsequently amended, especially by Decree-Law No. 234/2005, of 30 December 2005 ("ADSE", for civil servants in general);</p> <p>Decree-Law No. 167/2005, of 23 September 1983, as subsequently amended ("ADM", for members of the Armed Forces);</p> <p>Decree-Law No. 158/2005, of 20 September 2005 ("SAD", for members of the security forces).</p>		<p>References to legal sources:</p>		<p>References to legal sources: See the sources listed under Marriage.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Considering its level of generality, it is very difficult to answer this question accurately. First, Portugal has a National Health Service (Serviço Nacional de Saúde – SNS), mainly financed with public funds, to which everyone has access. Therefore, at least theoretically, there is no need to contract any kind of (public or private) health insurance to be able to have access to healthcare.</p> <p>Additionally, there are a number of what could be called public “health insurance” schemes, that provide public servants in general (including the members of the security and armed forces) with additional healthcare benefits. These schemes are currently financed by individual contributions paid by their beneficiaries, but they also extend, under certain conditions, to the latter’s family members even if they are not part of the civil service. In this sense, it can be said that being a family member of a beneficiary of one of these public “health insurance” schemes ends up in the latter paying less to protect his/her family members that are not public servants, but two public servants that are married will have to pay the same contribution individually due. As such, it would not be exact to say that the family arrangement in question is directly taken into consideration in the determination of the “price” of the “health insurance” provided by the State to its civil servants.</p> <p>Finally, there are a number of private insurance companies providing private health insurance to those interested in it. It is, however, impossible to determine if the different insurance companies that do so determine the prices of the insurances they sell having regard to the family arrangements of the different insurance takers. For all this, I decided to answer this question “No, but”: in some cases the way the aforementioned public “health insurance” schemes work may result in a public servant having to pay less for the benefits those schemes provide, but that is, to be exact, irrespective of the form his/her family takes. And the same can be said for private health insurances, since their logic will be more “commercial” than “family-oriented”.</p>		<p>Explanations and nuances: This family format is not recognized by Portuguese law.</p>		<p>Explanations and nuances: See the remarks made under Marriage.</p> <p>Since the full coming into force of Decree-Law No. 234/2005, of 30 December 2005, different and same-sex cohabiting partners are able to benefit from the health scheme applicable to different-sex (and currently also same-sex) married couples. The statutes mentioned as legal sources under the heading “marriage”, and concerning the Armed Forces and the Security Forces included provisions similar to the ones the Decree-Law No. 234/2005 introduced in this matter.</p>	

Jurisdiction: **Portugal**

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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 Yes 1984	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 1999	2015 Yes 2001
? 0000	N/A 0000			No 0000	No 0000

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Law No. 4/84, of 5 April 1984, on the protection of motherhood and fatherhood (different-sex married couples), now superseded.</p> <p>Law No. 9/2010, of 31 May, 2010, opening up civil marriage to same-sex couples.</p> <p>Law No. 35/2014, of 20 June 2014, adopting the General Law on the Civil Service.</p> <p>Labour Law Code (lastly enacted by Law No. 7/2009, of 12 February 2009, with subsequent amendments).</p>		<p>References to legal sources:</p>		<p>References to legal sources: Law No. 135/99, of 28 August, 1999, adopting measures for the protection of different-sex cohabitating couples ("uniões de facto", de facto unions).</p> <p>Law No. 7/2001, of 11 May, 2001, adopting measures for the protection of (different-sex and same-sex) cohabitating couples ("uniões de facto", de facto unions).</p>	
<p>Explanations and nuances: For the current situation, see arts. 40 and 134(2)(e) of Law No. 35/2014, of 20 June 2014, and 252 of the Labour Law Code (lastly enacted by Law No. 7/2009, of 12 February 2009, with subsequent amendments).</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: Art. 3(b)(c) of Law No. 135/99, of 28 August 1999 (for different-sex couples only); art. 3(b)(c) of Law No. 7/2001, of 11 May, 2001.</p>	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Income, troubles and legal family formats in Portugal". 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-PT-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 Yes 1984	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 1999	2015 Yes 2001
? 0000	N/A 0000			No 0000	No 0000
References to legal sources: See question 2.04.		References to legal sources:		References to legal sources: See question 2.04.	
Explanations and nuances: See question 2.04.		Explanations and nuances: This family format is not recognised by Portuguese law.		Explanations and nuances: See question 2.04.	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Income, troubles and legal family formats in Portugal". 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-PT-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 Doubt 0000	2015 Doubt 2010	2015 N/A 0000	2015 N/A 0000	2015 Doubt 1999	2015 Doubt 2001
	N/A 0000			No 0000	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>Explanations and nuances: There is no general rule recognising spouses or partners either in a different-sex or in a same-sex married or cohabiting couple, as such, as legal representatives of the other spouse or partner if he/she is incapacitated to take decisions regarding his/her healthcare.</p> <p>Law No. 25/2012, of 16 July 2012, on advance health care directives (or "living will", "testamento vital") allows for a "healthcare proxy" ("procurador de cuidados de saúde") to be appointed to make healthcare decisions on behalf of the principal, when he/she is incapable of making those decisions.</p> <p>In practice, however, attending physicians have tended to honor the spouse's wishes regarding the medical treatment of his/her partner (if the latter is not able to take decisions on his/her own). This may have also been true for different-sex cohabiting partners, especially after it became a common family arrangement, and has been recognised under Portuguese Law, at least for certain effects, since 1999. The legal void in this area creates difficulties to doctors themselves, as they try to make decisions regarding the treatment of their patients.</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: For different-sex partners, see the comments made under the heading "marriage".</p> <p>For same-sex partners, and until at least 2001, it is impossible to ascertain if and to what point the desires of a same-sex partner regarding the medical treatment of his/her partner would, in practice, be looked for and followed by medical attendants, especially if the family members of the partner in question tried to interfere in the situation. The date of 2001 is mentioned because that year same-sex cohabiting couples were legally recognised, at least for certain effects, so it is to be expected that from that date onwards same-sex partners have been more and more involved in helping make/making medical decisions regarding their incapacitated partners.</p>	

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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 Yes 1982	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 1995	2015 Yes 2007
No 0000	N/A 0000			No 0000	No 0000
<p>References to legal sources: Art. 152 of the Penal Code, as amended by Decree-Law No. 48/95, of 4 March 1995, and by Law No. 59/2007, of 4 September 2007.</p> <p>Law No. 112/2009, of 16 September 2009 (adopting measures to prevent domestic violence and protect its victims).</p>		<p>References to legal sources:</p>		<p>References to legal sources: Art. 152 of the Penal Code, as amended by Law No. 59/2007, of 4 September 2007).</p> <p>See also the references made under the heading "marriage".</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Since 1995, Art. 152 of the Penal Code (the provision then - and now - applicable to domestic violence situations) applies to both married and cohabiting different-sex couples.</p> <p>After the reform of 2007, this provision mentions, in separate sections, the spouse or ex-spouse (section 1(a)) and the different (or same-sex person) with whom the perpetrator is, or was, involved in a de facto union, even without cohabitation (section 1(b)).</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: Art. 152 of the Penal Code (as amended in 2007) extended the criminal provisions regarding domestic violence situations to same-sex cohabiting partners.</p> <p>See also the remarks made under the heading "marriage".</p>	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Income, troubles and legal family formats in Portugal". 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-PT-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 Yes 1988	2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 Yes 1988	2015 Yes 2007
Yes, but 0000	N/A 0000			No 0000	No, but 2001
					No 0000
References to legal sources: Art. 134 of the Code of Criminal Procedure, as amended by Law No. 48/2007, of 29 August 2007.		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: Spouses have enjoyed some sort of right to refuse to answer to any questions in the context of a criminal procedure against his/her spouse at least since the Code of Criminal Procedure of 1929. Technically, this prerogative was then seen not as much as a "right" but as an "inability" to testify (and when the spouse in question was the complainant, if the judge of the case deemed it important, he/she could then be heard, even against his/her desire, during the proceedings: art. 216(1)(3) and 216(2) of the Code of Criminal Procedure of 1929).</p> <p>The current Code of Criminal Procedure, that entered into force on 1 January 1988, recognised not only the spouse (art. 134(1)(a) of the Code of Criminal Procedure) but also the ex-spouse and different-sex current and ex-cohabiting partner the right to refuse to answer any questions regarding facts occurred during the marriage or cohabitation (subsection (b) of the same provision) in criminal proceedings against the other spouse/partner. From 2010 onwards, the prerogative applies to same-sex married couples as such, after the opening up of civil marriage to same-sex couples.</p>		<p>Explanations and nuances: This family format is not recognised by Portuguese law.</p>		<p>Explanations and nuances: See the remarks made under the heading "marriage".</p> <p>In 2007 the right to refuse to testify was explicitly recognised to same-sex cohabiting partners (by Law No. 48/2007, of 29 August 2007), amending the Code of Criminal Procedure).</p> <p>Although the law did not specifically state it, a case could probably be made that after 2001 (when same-sex cohabiting couples were legally recognised as such), same-sex partners could also make use of the prerogative that article 134(1)(b) of the Code of Criminal Procedure explicitly recognised to different-sex partners only.</p>	