

## Parenting and legal family formats in Portugal

by Miguel Freitas <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 3 – Parenting)

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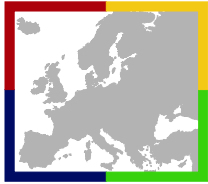
<sup>3</sup> Institut national d'études démographiques, Paris, France, [www.ined.fr](http://www.ined.fr).



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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 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](http://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 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.

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**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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Jurisdiction: **Portugal**

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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
2016 Yes, but 2006	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2006	2016 Yes 2016
Yes, but 1985	No 2010			Doubt 1985	No 0000
No 0000	N/A 0000			No 0000	
<b>References to legal sources:</b> Law No. 32/2006, of 26 July 2006, on Medically Assisted Procreation.  Law No. 17/2016, of 20 June 2016.		<b>References to legal sources:</b>		<b>References to legal sources:</b> See under Marriage.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> In Portugal, medically assisted procreation techniques have been available since 1985 (for a short history, see the website of the National Council for Medically Assisted Procreation, at <a href="http://www.cnpma.org.pt/cidadaos_pma.aspx">http://www.cnpma.org.pt/cidadaos_pma.aspx</a>), but were only subject to comprehensive, explicit legal regulation in 2006, with the passage and entry into force of Law No. 32/2006, of 26 July 2006.</p> <p>According to arts. 10 and 19(1) of Law No. 32/2006, the use of donated sperm is only admissible if insemination with the woman's husband or partner's sperm is not possible.</p> <p>Art. 6(1) of Law No. 32/2006 allowed only married and cohabiting different-sex couples to access medically assisted procreation techniques. Legislative initiatives meant to allow same-sex (married and cohabiting) couples access to medically assisted procreation techniques had been rejected by the Portuguese Parliament. However, the current majority of left-of-center parties in Parliament, after the last general elections occurred in October 2015, analyzed the possibility of allowing women that are not married or in cohabitation to access medically procreation techniques.</p> <p>Update 2016:</p> <p>Law No. 17/2016, of 20 June 2016 (which entered into force on August 1st, 2016), has modified Law No. 32/2006 in a number of important aspects relevant to same-sex couples. Art. 6(1) of the latter now specifically allows female same-sex married or cohabiting couples, and single women, to avail themselves of Medically Assisted Procreation techniques, without any kind of discrimination due to civil status and sexual orientation.</p> <p>Art. 19(1) was also changed, now reading that sperm from a donor can be used if "a pregnancy cannot be obtained by any other means". This seems to imply that for married and cohabiting different-sex couples the rule is still that you can only use donated sperm if the sperm of the male spouse/partner cannot be used for insemination (hence the "Yes, but" answer).</p>	<p><b>Explanations and nuances:</b> This family format is not recognized by Portuguese law.</p>	<p><b>Explanations and nuances:</b> See also under Marriage.</p> <p>Since until 2006 medically assisted procreation techniques were not subject to comprehensive legal regulation, it is not clear if cohabiting, different-sex couples were practically allowed to access such techniques and, if so, under which conditions, hence the answer "doubt".</p>			

Jurisdiction: **Portugal**

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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
2016 Yes, but 2006	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2006	2016 Yes 2016
Doubt 1985	No 2010			Doubt 1985	No 0000
No 0000	N/A 0000			No 0000	
References to legal sources: See question 3.01.		References to legal sources:		References to legal sources: See question 3.01.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> See question 3.01.</p> <p>Arts. 10, 19(1) and 27 of Law No. 32/2006 allowed in vitro fertilisation using donated eggs or sperm but only if insemination using the woman's eggs or the husband or partner's sperm is not possible.</p>		<p><b>Explanations and nuances:</b> This family format is not recognized by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See question 3.01.</p>	



Jurisdiction: **Portugal**

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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
2016 Yes, but 2015	2016 No, but 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes, but 2016	2016 Yes, but 2016
No 2006	No 2010			No 2006	No 0000
Doubt 1985	N/A 0000			Doubt 1985	
No 0000				No 0000	
<b>References to legal sources:</b> See question 3.01.  Law No. 25/2016, of 22 August 2016.		<b>References to legal sources:</b>		<b>References to legal sources:</b> See question 3.01.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> See question 3.01.</p> <p>Although between 1985 and 2006 the law was unclear regarding the use of surrogacy, as far as it is a matter of public knowledge this technique has not been used in the country to date.</p> <p>Art. 8 of the Law No. 32/2006 generally prohibited recourse to what the statute terms "substitute motherhood" ("maternidade de substituição"), either with or without pecuniary interest. Therefore, surrogacy, whether altruistic or commercial, was not available as a medically assisted procreation technique in Portugal.</p> <p>Art. 39 of the Law No. 32/2006 made it a crime to conclude a surrogacy contract with a pecuniary interest, or to promote such contracts. See also art. 8(1) of the same statute, which made surrogacy contracts null and void for all intents and purposes.</p> <p>Update 2016:</p> <p>Law No. 25/2016, of 22 August 2016, in force since 1 September 2016, makes surrogacy available to women who either lack a uterus or whose uterus, due to a medical condition, makes it absolutely impossible for them to get pregnant, or when medical reasons so justify. The surrogate mother's eggs cannot be used in the procedure, and at least one of the intended parents has to be the source for the eggs or sperm used (art. 8(2)(3)). By tying access to surrogacy to the woman's inability to get pregnant, the law excludes male couples from using surrogacy to father a child.</p>		<p><b>Explanations and nuances:</b> This family format is not recognized by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See under Marriage, and see question 3.01.</p>	

Jurisdiction: **Portugal**

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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
2016 Yes 0000	2016 Yes, but 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes 0000	2016 Yes, but 2016
	No 2010				No 0000
	N/A 0000				
<b>References to legal sources:</b> Arts. 1826(1), 1828 and 1832(1) of the Civil Code. See also art. 1838 of the same Code.  Art. 20(1) of Law No. 32/2006, of 20 July 2006, as modified by Law No. 17/2016, of 20 June 2016.		<b>References to legal sources:</b>		<b>References to legal sources:</b> Art. 1847 and further of the Civil Code.  See also under Marriage"	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> Art. 1826(1) of the Civil Code establishes a presumption of parenthood regarding the mother's husband. This presumption can be set aside in accordance with art. 1828 (children born within the first 180 days of a marriage) and 1832 (allowing the married mother to make a declaration that the child is not her husband's) of the same Code. The presumption can also be set aside in judicial proceedings to that effect (art. 1838 of the Civil Code).</p> <p>Update 2016:</p> <p>Art. 20(1) of Law No. 32/2006, of 20 July 2006, as modified by Law No. 17/2016, of 20 June 2016, specifically states that the spouse or partner of the mother of a child born through Medically Assisted Procreation techniques (if he or she has consented to such a pregnancy), will be considered as a legal parent to the said child. This, however, is only available to female couples.</p>		<p><b>Explanations and nuances:</b> This family format is not recognized by Portuguese law.</p>		<p><b>Explanations and nuances:</b> The father of a child born out of wedlock can become his/her legal parent by way of recognition, in accordance with art. 1847 and further of the Civil Code.</p> <p>See also under Marriage.</p>	

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Source: **M. Freitas**, "Parenting 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-PT-Section3.pdf](#) (please use this full citation when citing any information from this table).

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
2016 Yes 2015	2016 Yes 2015	2016 N/A 0000	2016 N/A 0000	2016 Yes 2015	2016 Yes 2015
No 0000	No 2010			No 0000	No 0000
	N/A 0000				
<b>References to legal sources:</b> Art. 1904-A(1) of the Civil Code, added by Law No. 137/2015 of September 7, 2015.		<b>References to legal sources:</b>		<b>References to legal sources:</b> See the references made under the heading "marriage".	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> Law No. 137/2015 of September 7, 2015, has added a new art. 1904-A to the Civil Code, allowing for joint parental responsibility regarding the biological son/daughter of one of the spouses or cohabiting partners. This joint parental authority can only be established by a judicial decision.</p>		<p><b>Explanations and nuances:</b> This family format is not recognised by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See the remarks made under the heading "marriage".</p>	

Jurisdiction: **Portugal**

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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
2016 Yes 1995	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes 1995	2016 Yes 2016
Yes, but 1984	No 2010			Yes, but 1984	No 0000
? 0000	N/A 0000			? 0000	
<b>References to legal sources:</b> Art. 40 of the Labour Law Code (lastly enacted by Law No. 7/2009, of 12 february 2009, with subsequent amendments), which is also applicable to civil servants (art. 4(1)(d) of the General Law on the Civil Service, enacted by Law No. 35/2014, of 20 June 2014.		<b>References to legal sources:</b>		<b>References to legal sources:</b>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> As regards different-sex married couples, the father has enjoyed, at least since 1984, the right to parental leave (although at first in a rather limited way, and since 1995, subsequently to the enactment of Law No. 17/95, of 9 June 1995, in a more generous fashion). Under the current law, fathers are even required to take some time of parental leave after their children are born.</p> <p>The answer was "No" as regards same-sex married couples because, as the law stood, same-sex spouses could not be jointly considered legal parents of a child.</p> <p>Update 2016:</p> <p>Since Portuguese law now allows for same-sex parenthood (through adoption and, in the case of female couples, as a result of the use of Medically Assisted Procreation techniques), no discrimination will be allowed as regards parental leaves.</p>		<p><b>Explanations and nuances:</b> This family format is not recognized by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See under Marriage.</p>	



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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
2016 No 0000	2016 No 2010	2016 N/A 0000	2016 N/A 0000	2016 No 0000	2016 No 0000
	N/A 0000				
<b>References to legal sources:</b>		<b>References to legal sources:</b>		<b>References to legal sources:</b>	
<b>Explanations and nuances:</b> Parental leave is only available to biological or adoptive parent(s).		<b>Explanations and nuances:</b> This family format is not recognised by Portuguese law.		<b>Explanations and nuances:</b> See under Marriage.	

Jurisdiction: **Portugal**

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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
2016 Yes 1995	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes 1995	2016 Yes 2016
Doubt 0000	Doubt 2010			Doubt 0000	Doubt 0000
	N/A 0000				
<b>References to legal sources:</b> Art. 1887-A of the Civil Code, added by Law No. 84/95, of 31 August 1995.		<b>References to legal sources:</b>		<b>References to legal sources:</b> See under Marriage.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> Before the reform brought about by Law No. 84/95, this matter had no statutory solution and the right in question was a subject of contention.</p> <p>The new Art. 1887-A of the Civil Code answered this question by establishing that parents cannot unjustifiably prevent their children from having contact with other siblings and ascendants (which include, of course, the children's grandparents).</p> <p>Although civil marriage was opened to same-sex couples in 2010 (by Law No. 9/2010, of 31 May 2010), the right of joint and second-parent adoption was not, so it is doubtful if the legal provision mentioned would be interpreted as applying to children not biologically connected to one of the partners to such a couple.</p> <p>UPDATE 2016: The legal situation has changed after the entry into force of Laws Nos. 2/2016, of 29 February 2016, and 25/2016, of 22 August 2016, which recognized the possibility of joint and second-parent adoption by same-sex couples and allowed them to avail themselves of medically assisted procreation techniques (see the answers to the questions regarding these topics), meaning that the same rules regarding parental responsibilities will apply in the case of same-sex couples whenever both partners are legally recognised as parents to the couple's children.</p>		<p><b>Explanations and nuances:</b> This family format is not recognised by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See under Marriage.</p>	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Parenting 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-PT-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
2016 Yes 1977	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes 2001	2016 Yes 2016
Yes, but 1967	No 2010			No 1999	No 2001
No 0000	N/A 0000			No 0000	No 0000
<p><b>References to legal sources:</b> Art. 1981(2) of the Civil Code (until 1977).</p> <p>Art. 1979(2) (since the reform enacted by Decree-Law No. 496/77, of 25 November, 1977).</p> <p>Art. 3 of Law No. 9/2010, of 31 May 2010, which opened up civil marriage to same-sex couples.</p> <p>Law No. 2/2016, of 29 February 2016.</p>		<p><b>References to legal sources:</b></p>		<p><b>References to legal sources:</b> Art. 7 of Law No. 7/2001, of 11 May 2001.</p>	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b>                      Until 1977, the law (Art. 1981(2) of the Civil Code, in its original version) only allowed the adoption of the "illegitimate" offspring of one of the spouses by the other spouse. With the coming into force of the Constitution of 1976 (and the prohibition of discrimination between "legitimate" and "illegitimate" children), this restriction was, naturally, abolished.</p> <p>Art. 3 of Law No. 9/2010 specifically excluded same-sex married couples from jointly adopting, which could only be interpreted as excluding also the possibility of second-parent adoption (which would have the same practical effect). Attempts made to lift such restriction have met with fierce opposition in Parliament and have, till date, been rejected. However, after the last general elections held on October 2015 gave the left-of-center parties a majority in Parliament, 4 bills that would allow for the joint and second-parent adoption by same-sex couples were passed, on first reading, on November 20, 2015. Given the current composition of Parliament, it was to be expected that the bills in question - after being the object of discussion in committee and transformed into a single text - would be passed by Parliament on final reading.</p> <p>Update 2016:                      Law No. 2/2016, of 29 February 2016, which entered into force on March 1st, 2016, has eliminated all the legal restrictions to adoption by married and cohabiting same-sex couples, which are now able to adopt children under the same conditions laid down in the law for adoption by different-sex married and cohabiting couples.</p>		<p><b>Explanations and nuances:</b>                      This family format is not recognised by Portuguese law.</p>		<p><b>Explanations and nuances:</b>                      Art. 7 of Law No. 7/2001 specifically restricted to different-sex cohabiting couples the right to jointly adopt children, which cannot but be interpreted as excluding also the possibility of second-parent adoption by a same-sex partner (which would have the same practical effect).</p> <p>As for the current (2016) situation, see under Marriage.</p>	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Parenting 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-PT-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
2016 Yes 1967	2016 Yes 2016	2016 N/A 0000	2016 N/A 0000	2016 Yes 2001	2016 Yes 2016
No 0000	No 2010			No 0000	No 0000
	N/A 0000				
<b>References to legal sources:</b> See question 3.09.		<b>References to legal sources:</b>		<b>References to legal sources:</b> See question 3.09.	
<b>Explanations and nuances:</b> See question 3.09.		<b>Explanations and nuances:</b> This family format is not recognised by Portuguese law.		<b>Explanations and nuances:</b> See question 3.09.	

Jurisdiction: **Portugal**

Source: **M. Freitas**, "Parenting 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](http://www.LawsAndFamilies.eu), [LawsAndFamilies-PT-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
2016 Yes 1977	2016 Yes, but 2010	2016 N/A 0000	2016 N/A 0000	2016 Yes 1977	2016 Yes, but 1977
No 0000	N/A 0000			No 0000	No 0000
References to legal sources: See question 3.09.		References to legal sources:		References to legal sources: See question 3.09.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p><b>Explanations and nuances:</b> As regards different-sex couples, see question 3.09.</p> <p>Portuguese law allows individual adoption of children since 1977.</p> <p>Although the law never explicitly excluded gays and lesbians from individually adopting children, it is no wonder that it ended up being read in that way in practice.</p> <p>This attitude has changed through time, and it would now not be acceptable to exclude someone from adopting just on the basis of his/her sexual orientation (which art. 13 of the Portuguese Constitution specifically forbids).</p> <p>In its "practical guide" on adoption, the Social Security, which is the administrative body in charge of the non-judicial aspects of the adoption procedure, takes some pain to clarify that "There are no general criteria that abstractly favour one candidacy over another. The task of the adoption services is to find, on the basis of the knowledge of each child, the candidate(s) (either single or a couple) better suited to meet the specific characteristics and needs of the child in question" (see the "Guia prático - Adoção", p. 10, available at <a href="http://www4.seg-social.pt/documents/10152/14984/adocao">http://www4.seg-social.pt/documents/10152/14984/adocao</a>). The point to which this is so in practice, cannot be clarified here.</p> <p>Update 2016: It is to be expected that now that adoption by same-sex couples is legally possible (see the update to the answer to question 3.09) any resistance to individual adoption by gay and lesbian people will tend to be overcome. Again, we are talking about cultural attitudes that are difficult to assess and modify.</p>		<p><b>Explanations and nuances:</b> This family format is not recognised by Portuguese law.</p>		<p><b>Explanations and nuances:</b> See question 3.09 and see the remarks under Marriage.</p>	