

Death and legal family formats in Romania

by Iustina Ionescu 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 6 – Death)

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¹ Iustina Ionescu (Director of Programs, Euroregional Center for Public Initiatives) is grateful for the useful comments that Constantin Cojocariu (Human rights lawyer and consultant, www.pedreptvorbind.blogspot.com) made on an earlier version of the answers in this section of the database.

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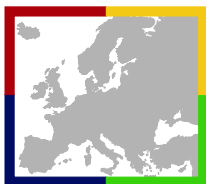
³ Institut national d'études démographiques, Paris, France, www.ined.fr.



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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 Romania

The answers concerning Romania 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 Romania
by Iustina Ionescu (Section 1)**

**Income, troubles and legal family formats in Romania
by Constantin Cojocariu (Section 2)**

**Parenting and legal family formats in Romania
by Constantin Cojocariu (Section 3)**

**Migration and legal family formats in Romania
by Iustina Ionescu (Section 4)**

**Splitting up and legal family formats in Romania
by Constantin Cojocariu (Section 5)**

**Death and legal family formats in Romania
by Iustina Ionescu (Section 6)**

So this paper is based on **Section 6 (Death)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

6.1 Tenancy continuation

6.2 Property at death

6.3 Inheritance

6.4 Inheritance tax

6.5 Survivor’s pension

6.6 Wrongful death

6.7 General background regarding death

In the following pages of this paper, first the answer to question 6.7 is presented, followed by the answers to questions 6.1 to 6.6.

6.07 - General background regarding death (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 death, then please do so here.

Nothing to report.

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.01 - Tenancy continuation**

When the partner who holds the rental contract dies, does the other partner then have a right to continue to rent the home?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2011	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
No 1953					
<p>References to legal sources: Art.323 of the Law 287 of 17 July 2009 on the Civil Code. This new Civil Code entered into force on 1 October 2011.</p> <p>Family Code of 1953.</p>		<p>References to legal sources:</p>		<p>References to legal sources:</p>	
<p>Explanations and nuances: I mentioned the Family Code of 1953 to show that between 1953-2011 there was no such right.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.</p>	

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.02 - Property at death**

When one partner dies, do statutory rules consider as joint property any possessions acquired by either of them after they started this type of relationship? (In other words: would the surviving partner be deemed to own 50% of these possessions, while the other 50% are subject to relevant rules of inheritance law?)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes, but 2011	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
Yes 0000					
References to legal sources: Art. 339 of the Law 287 of 17 July 2009 on the Civil Code. The new Civil Code entered into force on 1 October 2011. Family Code of 1953 was in force until 1 October 2011.		References to legal sources:		References to legal sources:	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
Explanations and nuances: Since the entry into force of the new Civil Code, the answer is: Yes, except in cases where the two spouses concluded a prenuptial contract containing another agreement.		Explanations and nuances:		Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.	

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.03 - Inheritance**

When one partner dies without testament, is the other partner then an inheritor?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 1944	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
<p>References to legal sources: Art. 970 of the Law 287 of 17 July 2009 on the Civil Code. The new Civil Code entered into force on 1 October 2011.</p>		<p>References to legal sources:</p>		<p>References to legal sources:</p>	
<p>Explanations and nuances: The previous provisions of the Family Code of 1953 included also the right of the spouse to inherit. This right was actually introduced in the legislation in 1944 (Law 319/1944).</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.</p>	

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.04 - Inheritance tax**

Is the surviving partner exempted from paying inheritance tax (or required to pay less than a mere friend would have to pay)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 2013	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
No 0000					
References to legal sources: Government Emergency Ordinance No. 80 of 26 June 2013 on judicial taxes.		References to legal sources:		References to legal sources:	
Explanations and nuances: The spouse is not exempted from paying inheritance tax and never was.		Explanations and nuances:		Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.	

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.05 - Survivor's pension**

When one partner dies while being employed, is the surviving partner then normally entitled to a survivor's pension?
 (For example on the basis of statutory law, and/or on the basis of a collective labour agreement or arrangements of the employer.)

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2010	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
Yes 2000					
Yes, but 1977					
Yes 1959					

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>References to legal sources: Art. 83 of the Law 263 of 16 December 2010 on the unitary system of public pensions.</p> <p>Art. 65 of the Law 19 of 17 March 2000 on the system of public pensions and other social insurance rights.</p> <p>Art. 39.(1) of the Law 3 of 30 June 1977 on pensions from the public social insurance and social assistance.</p> <p>Art. 29 of the Law 27 of 28 December 1966 on pensions from the public social insurance system and the supplementary pension.</p> <p>Art. 28 of the Decree 292 of 10 August 1959 on the right to pension from the Public Social Insurance System.</p>		<p>References to legal sources:</p>		<p>References to legal sources:</p>	
<p>Explanations and nuances: There are several requirements and conditions under which this right can be exercised.</p> <p>From 1977 until 2000 only women were entitled to this right.</p> <p>From 1959 until 1977 there was no gender difference.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.</p>	

Jurisdiction: **Romania**

Source: I. Ionescu, "Death and legal family formats in Romania". 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-RO-Section6.pdf](#) (please use this full citation when citing any information from this table).

Section: **6 - Death**

Question: **6.06 - Wrongful death**

In case of wrongful death of one partner, is the other partner then entitled to compensation from the wrongdoer?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 2011	2015 N/A 0000	2015 N/A 0000	2015 N/A 0000	2015 No 0000	2015 No 0000
Yes, but 2009					
? 0000					
References to legal sources: Art.1391 of Law 287 of 17 July 2009 on the Civil Code. The new Civil Code came into force on 1 October 2011.		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: For the period of time before the explicit provision in the 2009 Civil Code, this right was established in case-law. We are not aware from which exact year the courts started awarding compensation for the spouse.</p>		<p>Explanations and nuances:</p>		<p>Explanations and nuances: Cohabitation is not regulated for different sex or same sex couples under Romanian law.</p>	