

4. SOCIAL POLICY AND FAMILY LAW: MARRIAGE, DIVORCE AND PARENTHOOD

4.1 Marriage and cohabitation

Core elements of existing laws on marriage (hetero/same sex marriage, age at which it is possible to be married, rules regarding parental consent, rights and duties of marriage)

Austria

Obligatory civil marriage (§ 15 Austrian Marriage Act), that is accomplished by a so called marriage contract (§ 44 Austrian CC) spouses have to be of a different sex (§ 44 Austrian CC)

- capacity to marry requires the age of 18 (§ 1 para. 1 Austrian Marriage Act) but the court can allow a 16 year old spouse to marry, if the other spouse is of age (§ 1 para. 2 Austrian Marriage Act)
- prohibition of marriage in case of sibship (§ 6 Austrian Marriage Act)
- prohibition of bigamous marriage
- statutory matrimonial property regime of separation of property (§§ 1233, 1237 Austrian CC) matrimonial property regime can be modified by a "Ehepakt" (§ 1217 Austrian CC)
- spouses can choose a common family name (either his or her surname; § 93 para. 1 Austrian CC); without an explicit decision the surname of the male spouse becomes the family name ex lege (§ 93 para. 1 Austrian CC), in this case the wife has also the possibility to carry on her surname
- duty of the spouses of a mutual and extensive marital relationship, including cohabitation, fidelity, support and under certain circumstances contribution to acquisition (§ 90 Austrian CC)

Azerbaijan

The family relations in Azerbaijan are mainly regulated by the Family Code of the Republic of Azerbaijan adopted in 1995 (recent amendments were made in 2008).C9

Belgium

Le mariage civil est obligatoire (article 21, paragraphe 2 de la Constitution belge), mais la juridiction belge reconnaît aussi certains effets légaux du mariage religieux.

- Le mariage peut être contracté entre deux personnes de sexe différent ou de même sexe.
- La capacité matrimoniale ne peut s'exercer avant l'âge de 18 ans (article 144 du Code civil belge), mais le tribunal de la jeunesse peut faire des exceptions pour motifs graves (principalement grossesse, article 145 du Code civil belge).
- L'époux mineur a besoin du consentement de ses parents (article 148 du Code civil belge), auxquels le tribunal de la jeunesse peut se substituer.
- Le mariage est prohibé entre parents de ligne descendante et ascendante, ainsi qu'entre alliés dans la même ligne.
- Le mariage bigame est prohibé.
- Le droit à disposer des biens immobiliers et mobiliers communs est limité (article 215, paragraphe 1 du Code civil belge).
- Les donations faites par l'un des époux sont annulables par le tribunal si elles mettent en péril les intérêts de la famille.

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- En matière de patrimoine, le régime matrimonial repose sur la communauté des biens acquis durant le mariage avec présomption de patrimoine commun (article 1398 du Code civil belge).
- Le régime de la communauté des biens ou de séparation des biens peut être choisi par contrat (article 1452 et suivants du Code civil belge).
- Le mariage n'a pas d'effet sur le nom.
- Le mariage impose un devoir mutuel de fidélité et d'assistance (article 213 du Code civil belge).

Bosnia and Herzegovina

RS: Marriage is concluded between two persons of opposite sex. Marriage is allowed for the persons who turn 18, exceptionally for minors older than 16 with written opinion provided by the custodial institution.

- FBiH: The Family Law of FBiH provides for that the marriage is legally regulated union between a man and a woman (Article 6), and that the marriage is concluded between a man and a woman by mutually consented declarations before a registrar (Article 7). Article 15 of the Law prescribes that a person younger than 18 cannot conclude marriage (paragraph 1). Exceptionally, the court may in extrajudicial procedure allow a person who turned 16 to conclude a marriage if the court finds that the person is physically and mentally capable for exercising rights and duties arising from marriage, and that the marriage is in the interest of that person. Article 30 prescribes that spouses are equal in marriage, that they are obligated to be faithful to each other, to respect and assist each other, to mutually decide on place of residence, to mutually and equally decide on childbirth and child care, on regulation of mutual relationship and doing tasks in marital, i.e. family union.

- Brčko District (BD): Marriage is concluded between two persons of opposite sex by their free consent. Age of majority is a requisite for conclusion of marriage. The court may find it justified to allow conclusion of marriage to a minor older than 16. Spouses are equal in marriage and obligated to mutually respect and assist other, to mutually and equally decide on place of residence, on childbirth and upbringing of their children. By an act of concluding marriage, spouses are obligated to decide on their last names. Mutual support of spouses is their duty and right. Spouses may have marital and separate property. Marital contract may regulate property relations between future spouses and as well during marital union.

Bulgaria

The marriage is concluded under mutual consent of a man and a woman, given in person and simultaneously before a civil status official. Marriage can be concluded by a person over the age of eighteen years. By exception in case important reasons impose this, marriage can also be concluded by a person over the age of sixteen years, with the permission of the chairperson of the respective district court. The chairperson listens to the under-age person, their parents or guardians. The opinion of the parents of the guardians may also be given in written with a notarial endorsement of the signature. With the act of the marriage, the under-aged person becomes able bodied but can conclude real estate transactions only with the permission of the respective district court where he or she lives.

Both spouses have equal rights and obligation in the marriage. Relations between spouses are built on the basis of mutual respect, common care for the family, understanding and fidelity. Spouses live together unless important reasons impose their living separately, for instance military service, long-term treatment at another location, fulfilment of civil or professional obligations, etc. The separate living of spouses due to important reasons is not a 'de facto separation' because it is not related to the termination of marital links. Every spouse is free to choose a profession. Spouses are obliged through their mutual understanding and joint efforts and in correspondence with their capabilities, property and incomes, to ensure the wellbeing of the family and to take care of the raising, education and support of their children. Matrimonial material relations include the possession of material objects, the injunction therewith, family expenses, responsibilities for obligations, provision of support, etc. The Family Code imposes a combined regime of property relations – of commonwealth and separation. The marital property commonwealth appears under the force of the law when cumulatively the following conditions appear: 1. the acquirer of the property has the nature of 'spouse'; 2. the acquired property is a belonging, a right over a belonging or a money deposit; 3. the property has been acquired during the marriage; 4. it is the result of a combined contribution. The law provides for a possibility to divert from this regime subject to the will of the spouses. Personal belongings are listed in articles 20 and 21 of the Family Code – these are properties who are not belongings, rights over belongings and money deposits, unless these have been acquired as a result of the combined contribution of both spouses, that serve for personal or professional use, premarital possessions, inherited possessions, gifted possessions, rewards.

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Croatia

Only legal basis for hetero sex marriage exists (religious or civil marriage).

According to the Family Act, marriage is defined as a union of a man and a woman. Marriage can be concluded by persons with legal capacity that are at least 18 years old. On an exceptional basis, persons who have turned 16 can conclude marriage – that person must have court permission for marriage, but not its parent's one.

Rights and duties:

In marriage, both partners are entitled to the same rights. They are bound to be faithful, to help each other mutually, they have to respect each other and maintain harmonious family and marital relations. They determine in agreement on the place of their residence, birth and raising of their children and family responsibilities. Both partners independently decide on their choice of occupation and work.

There is The Homosexual Couples Act in force. The Act prescribes homosexual couple as a union of two persons of the same sex (further in the text: partner/s) that are not engaged in other marital, extramarital or homosexual union, and that lasts for three years at least, and is based on principles of equality of partners, mutual respect and help, as well as the emotional union of the partners.

Legal implications of the existence of a homosexual union are the right to maintenance of one of the partners and the right to acquisition and regulation of mutual relationships related to property and the right to mutual help.

The Act prohibits any discrimination, direct or indirect, based on the facts of homosexual orientation and homosexual union.

Cyprus

Same sex marriages are not legally recognised in Cyprus.

The age at which it is possible for a couple to be married according to the relevant legislation, is 18. Otherwise, marriage is allowed at the age of 16, but not below, and only if the consent of the persons who have parental care has been secured, as well as if there are serious reasons that justify this.

- As regards the rights and duties of marriage:

(a) Family Laws have fully incorporated the principle of equality and make no distinction between the rights and obligations of women and men.

- (b) Under the Property Rights of Spouses Law, the couple jointly decides on all matters relating to the marriage and each contributes to meeting the needs of the family in accordance with his/her means.
- (c) Independent ownership of property of spouses is recognised by our legal system. The common property system can also be valid if the spouses decide, either before or during the marriage, to establish by contract the ownership of assets in equal parts.
- (d) The Property Rights of Spouses Law also establishes the right for both spouses to claim a share of whatever property is acquired during the course of the marriage.

Czech Republic

Civil or religious marriage

- spouses have to be of a different sex
- capacity to marry requires the age of 18 but the court can allow a 16 year old spouse to marry if that conforms with the social aim of the marriage
- due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- prohibition of bigamous marriage (§ 11 due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- prohibition of marriage between relatives in straight line and between siblings (§ 12 due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- statutory matrimonial property regime of matrimonial regime involving community of property acquired during marriage (§§ 143 ff. due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- duty to declare whether the spouses want to have a common family name or each one wants to keep is own (§ 8 due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- duty of cohabitation, fidelity, respect each other's dignity, support and jointly care of children (§ 18 due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code)
- each spouse can represent the other in daily matters (§ 21 para. 1 due to serious matters a spouse can be represented by another person at the solemnization of marriage (§ 9 Czech Family Code))
- scope of common property can be restrained or enlarged by matrimonial contract (§ 143a para. 1 Czech Civil Code).

Denmark

Marriage:

- Civil or religious marriage (§ 15 Danish Marriage Act)
- Spouses have to be of a different sex
- Capacity to marry requires having obtained the age of 18 or the consent of the local municipality (§ 1 Danish Marriage Act) and the parents (§ 2 Danish Marriage Act)
- Prohibition of marriage between relatives in straight, ascending and descending line and between siblings (§ 6 Danish Marriage Act)
- Both parties need a permission to stay in Denmark, for example a tourist visa.
- Prohibition of bigamous marriage (§ 9 Danish Marriage Act)

Rights and duties

The property of the spouses is part of a statutory matrimonial property regime, unless the spouses have made a marriage contract. Representation through one spouse in case of prevention of the other.

Limitation on disposition of the jointly inhabited property and inventory.

Mutual duty to provide maintenance.

Spouses may choose the surname of each of them as the common family name

Registered partnership

Two persons of the same sex may have their partnership registered.

The rules on marriage and the rights and duties of spouses also apply to registered partnership.

Estonia

A marriage is contracted between a man and a woman. Prospective spouses contract marriage with both being present in person at the same time and both expressing their desire to get married. A marriage is contracted when the marriage registration is signed by the prospective spouses and the marriage contract is registered at the vital statistics office.

In order to marry the person has to have attained 18 years of age and has not to be married. A person between 15 and 18 years of age may marry with the written consent of his or her parent(s) or guardian.

A marriage can not be contracted between close relatives, including brothers and sisters, half-brothers and half-sisters, adoptive parents and adopted children, children adopted by the same person, persons of whom at least one has been placed under guardianship due to his or her restricted active legal capacity (except in certain cases).

Proprietary rights of spouses are specified by law and, if entered into, a marital property contract. Property acquired by spouses during the marriage is the joint property of the spouses. Both spouses have an equal right to possess, use and dispose of joint property. Separate property of a spouse is property which was in the ownership of the spouse before the marriage, property acquired by the spouse during the marriage as a gift or by succession, and property acquired by the spouse after termination of conjugal relations.

A spouse is required to maintain a spouse who needs assistance and is incapacitated for work and to maintain a spouse during pregnancy and child-care until the child attains 3 years of age if the financial situation of the obligated spouse allows for provision of maintenance.

Agreements which restrict the personal rights and freedoms of spouses are void.

Cohabitation and same sex marriage is not legalised in Estonia.

Finland

Civil or religious marriage (Finnish Marriage Act, sec. 17).

- The spouses have to be of a different sex to marry (Sec. 1 Finnish Marriage Act). However, spouses of the same sex can register their relationship, which will create the same legal effects as marriage (Act on Registered Partnerships, sec. 1). What is mentioned below of marriage, applies also to registered partnerships.

Capacity to marry requires the age of 18. The Ministry of Justice may, however, for special reasons grant a person who is at least 16 of age a dispensation to marry. Before the matter is decided, the custodian of

- the applicant is reserved an opportunity to be heard. (Finnish Marriage Act, sec. 4.)

- Prohibition of bigamous marriage (Finnish Marriage Act, sec. 6).

- Prohibition of marriage between relatives of the first degree of consanguinity (Finnish Marriage Act, sec. 7).

- Equality of the spouses (Finnish Marriage Act, sec. 2).

- Statutory matrimonial property regime of separation of property (Finnish Marriage Act, sec. 34).

- Limitation on disposition of real property intended to use as the common home of the spouses. The same applies to movable property which forms part of the common household goods used by both spouses, any necessary tools used by the other spouse, or movable property which is meant for the personal use of the other spouse or the children. (Finnish Marriage Act, sec. 38 and 39.)

- Each spouse has a marital right to the property of the other spouse. However, a spouse has no marital right to property excluded from the scope of the marital right by a marriage settlement, a gift deed or a will. (Finnish Marriage Act, sec. 35.)

- Common duty to provide maintenance for the family (Finnish Marriage Act, sec. 46).

Spouses can either keep their own surnames, choose the surname of one of them as the common family name, or one spouse can choose a double name (Finnish Names Act, sec. 7 and 8a).

France

Only civil marriage is recognised by law.

- Between spouses of opposite sexes
- The man and the woman must be at least 18 years of age (Article 144 of the French Civil Code amended by Law No. 2006-399 of 4 April 2006) - exemptions may be granted by the Public Prosecutor (Article 145 of the French Civil Code)
- Mandatory consent of the parents for minors
- Prohibition of bigamy (Article 147 of the French Civil Code)
- Prohibition of marriage between first degree blood relations (Article 161 of the French Civil Code), brothers and sisters (Article 162 of the French Civil Code) uncles/nieces and aunts/nephews (Article 163 of the French Civil Code)
- Duty of mutual fidelity, financial and personal support (Article 212 of the French Civil Code) and conjugal relationship including cohabitation (Article 215 of the French Civil Code)
- Mutual obligation to provide for the household's expenditure (Articles 212 et 214 of the French Civil Code)
- Legal capacity of one spouse to purchase independently on the other's behalf any goods indispensables to the household (Article 220 of the French Civil Code)
- Restriction of the right to dispose of jointly owned immovable and movable property (Article 215, paragraph 3 s. of the French Civil Code)
- Matrimonial property regime of joint ownership of property purchased during the marriage (Articles 1387, 1400-1491 of the French Civil Code)
- Marriage contracts may modify the above property regime and must be concluded prior to the marriage.

Germany

Obligatory civil marriage

- spouses have to be of a different sex; same sex couples are able to found a special partnership which legally has almost equal consequences as the marriage (LpartG)
- capacity to marry requires the age of 18 (§ 1303 para. 1 German CC) but the court can allow a 16 year old spouse to marry, if the other spouse is of age (§ 1303 para. 2 German CC)
- prohibition of bigamous marriage (§ 1306 German CC)
- statutory matrimonial property regime of separation of property with equalization of net property gains at the end of the marriage (§ 1363 para. 1 German CC)
- matrimonial property regime can be altered by matrimonial contract
- mutual duty to provide maintenance (§§ 1360 f. German CC)
- the spouses should ascertain a common family name (§ 1355 German CC), without an ascertainment each spouse keeps his actual surname; the family name can be the surname of each spouse; the other spouse can choose to put his surname in front of or behind the family name.
- duty of a marital relationship (§ 1353 para. 1 s. 2 German CC), including mutual responsibility, the duty of cohabitation, fidelity, thoughtfulness and respect of each other
- statutory authority of one spouse to buy necessities in name of the other (§ 1357 German CC)
- limitation on disposition of the property on the whole (§ 1365 German CC) and household inventory (§ 1369 German CC)

Greece

Civil or religious marriage

- spouses have to be of a different sex
- capacity to marry requires the age of 18 but the court can make exceptions if the marriage should be concluded due to an important reason
- prohibition of bigamous marriage (Art. 1354 Greek CC)
- prohibition of marriage between relatives in straight line (Art. 1356 Greek CC), in collateral line until the fourth degree of

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consanguinity (Art. 1356 Greek CC), between relatives by marriage in straight line (Art. 1357 Greek CC) and between relatives by marriage in collateral line until the third degree (Art. 1357 Greek CC)

- statutory matrimonial property regime of separation of property with equalization of net property gains at the end of the marriage
- spouses can choose the matrimonial property regime of common property before and during the marriage (Art. 1403 Greek CC)
- common duty to provide maintenance for the family (Art. 1389 Greek CC)
- marriage has no effect on the surname of each spouse (Art. 1388 Greek CC), the spouses have no possibility to ascertain a common family name
- duty of cohabitation and a marital relationship, as long as this is compatible with the personality of each spouse (Art. 1386-1387 Greek CC)

Hungary

Registered partnerships to both same-sex and different-sex partners to the full range of protections, responsibilities and benefits of marriage with some exceptions. Among these exceptions are the right to adopt, access to fertility treatment and the partner's right to a common or double surname.

Iceland

(1) Spouses shall be jointly responsible for the maintenance of the family. Married persons shall keep each other informed on their financial status and earnings.

In 1996, a law on registered partnership for same-sex couples was ratified. The law provided same-sex couples that register their partnership with a similar legal status to married couples. According to Law on Registered Partnership (no. 52/2000), same-sex partners were allowed to legally adopt their partner's child. However, same-sex couples did not have legal rights to adopt a child together and they did not have rights to artificial insemination or other fertility procedures according to the law on Artificial Insemination (Adoption Law no 130/1999; Artificial Fertilisation Law no. 55/1996). By law from 2006 same-sex couples enjoy all legal rights that heterosexual couples enjoy, including the right to artificial inseminations and adoption (Alþingistiðindi 2005-06 A: 1445).

Age at which it is possible to be married: At the age of 18 years it is possible to be married. It is possible to get an exemption and get married at a lower age.

Rules regarding parental consent: A person who has been stripped of his or her legal majority cannot enter into wedlock. Marriage between progenitors and descendants, and between siblings is prohibited by law. Adoptive parents and children can marry if they have the adoption annulled. It is not allowed to marry someone who is already in wedlock.

Ireland

For those ordinarily resident in the Irish State, the minimum age at which they may marry is 18 years (unless they have a Court Exemption Order). This is the case even if they marry outside of Ireland. Even if not ordinarily resident in the Irish State, they must be over 18 years of age if you wish to marry someone in Ireland.

The definition of 'marriage' in Ireland does not include same-sex partnerships. There is also no provision in Ireland for the legal registration of same-sex partnerships.

Italy

Priority of civil marriage; a religious marriage can gain legal effects if it gets registered in the so-called "matrimonio concordatario"

- spouses have to be of a different sex
- capacity to marry requires the age of 18 (art. 84 par. 1 of the Italian Civil Code.); in case of important reasons, an exception can be made by the juvenile court if the spouse has reached the age of sixteen (art. 84 par. 1 of the Italian Civil Code)
- prohibition of bigamy
- prohibition of marriage between relatives in straight line, in collateral line until the third degree (art. 87 of the Italian Civil Code), between relatives by marriage in straight line and in collateral line until the second degree
- statutory matrimonial property regime of common property regime (art. 159 of the Italian Civil Code)
- matrimonial property regime can be changed by consent
- mutual duty of fidelity, collaboration, cohabitation, material support and aid in meeting family needs (art. 143 of the Italian Civil Code)
- the man keeps his birth name, whereas the wife gets a double name (art. 143bis of the Italian Civil Code).

Latvia

Civil or religious marriage

- spouses have to be of a different sex (Art. 35 S. 2 Latvian CC)
- capacity to marry requires the age of 18 (Art 32 Latvian CC), exceptions can be made if one spouse has reached the age of 16 and the other one is of age
- minors need the consent of their parents
- prohibition of bigamous marriage
- prohibition of marriage between relatives in straight line, siblings and half-siblings (Art. 35 in conjunction with Art. 213 Latvian CC)
- mutual duty of fidelity, cohabitation and support for each other (Art. 84 Latvian CC)
- statutory right of representation in daily matters
- statutory matrimonial property regime of separation of property with equalization of net property gains at the end of the marriage (Art. 89 ff. Latvian CC)
- matrimonial property regime can be changed by matrimonial contract before or during the marriage
- spouses are free to choose a common family name, consisting of the surname of one of them, or to keep their surname; one spouse can choose a double name (Art. 86 Latvian CC).
- mutual duty of fidelity, cohabitation and support for each other (Art. 84 Latvian CC)
- statutory right of representation in daily matters
- statutory matrimonial property regime of separation of property with equalization of net property gains at the end of the marriage (Art. 89 ff. Latvian CC)
- matrimonial property regime can be changed by matrimonial contract before or during the marriage
- spouses are free to choose a common family name, consisting of the surname of one of them, or to keep their surname; one spouse can choose a double name (Art. 86 Latvian CC).

Lithuania

Spouses have to be of a different sex (Art. 3.12 Lithuanian CC)

- prohibition of bigamous marriage (Art. 3.1. para 1 Lithuanian CC)
- capacity to marry requires the age of 18 (Art. 3.14. para 1 Lithuanian CC), the court can make exceptions (provide emancipation) if the minor spouse has reached the age of 15, in case of pregnancy even before
- prohibition of marriage between relatives in straight line and collateral line till the third degree (Art. 3.17 Lithuanian CC)
- statutory matrimonial property regime of common property regime (Art. 3.88 para. 2 Lithuanian CC)
- statutory matrimonial property regime can be changed by matrimonial contract (Art. 3.101 ff. Lithuanian CC)
- common duty to provide maintenance for the family (Art. 3.27 Lithuanian CC) and children until the age of majority or longer if a

child has no legal capacity due to his health status (Art. 3.192 Lithuanian CC)
- spouses are free to choose a common family name, consisting of the surname of one of them, or to keep their surname; one spouse can choose a double name (Art. 3.31 Lithuanian CC)

Luxembourg

Mariage civil

- les époux doivent être de sexe différent;
- l'âge minimum requis pour le mariage est de 18 ans pour les hommes et de 16 ans pour les femmes; les dérogations doivent être demandées au Grand Duc;
- interdiction de la bigamie;
- prohibition du mariage à l'infini entre les ascendants et descendants légitimes ou naturels en ligne directe
- prohibition du mariage entre collatéraux et les alliés au même degré.
- prohibition relative entre l'oncle et la nièce, la tante et le neveu;

Néanmoins, il est loisible au Grand-Duc de lever, pour des causes graves, les prohibitions entre beau-frère et belle-sœur, oncle et nièce, tante et neveu.

Régime matrimonial légal en l'absence de contrat de mariage est la communauté d'acquêts Art. 1400 c. civ. et s. par convention un autre régime matrimonial conventionnel peut être adopté avant la célébration du mariage. Art. 1497 c. civ. Ils peuvent également adopter le régime de séparation des biens. La loi admet sous certaines conditions le changement de régime matrimonial au cours du mariage; Art. 1397. (L. 16 août 1975) Après deux années d'application et dans les seules limites prévues à l'article 1387, les époux pourront apporter à leur régime matrimonial, conventionnel ou légal, toutes les modifications qu'ils jugent à propos et même le changer entièrement, par un acte notarié.

- obligation de contribuer au mariage. Entre époux, on parle du devoir de contribuer aux charges du ménage et dans les cas de séparation, cette contribution se transforme en un devoir de secours alimentaire entre conjoints (Art. 214 CC); ???

Art. 214. Si le contrat de mariage ne règle pas la contribution des époux aux charges du mariage, ils y contribuent à proportion de leurs facultés respectives.

Ils s'acquittent de leur contribution par leur travail professionnel ou domestique, par les apports en mariage et par les prélèvements qu'ils font sur leurs biens personnels.

Si l'un des époux s'acquitte de sa contribution par son activité au foyer, l'autre est obligé de lui fournir tout ce qui est nécessaire pour les besoins de la vie, selon ses facultés et son état.

Si l'un des époux ne remplit pas ses obligations, il peut y être contraint par l'autre époux dans les formes prévues à l'article 1011 du Nouveau Code de procédure civile.

- le mariage n'a aucun effet sur le nom patronymique des époux; cependant l'usage permet à l'épouse l'usage du nom du mari par l'épouse.

- obligation de vivre ensemble et de relations maritales, de fidélité et de soutien mutuel (Art. 215 C. civ. lux); Art. 215. Les époux sont tenus de vivre ensemble. A défaut d'accord entre époux sur la résidence commune, la décision appartiendra au juge qui la fixera après avoir entendu les motifs invoqués par chacun des époux. Néanmoins, le tribunal pourra, pour des motifs légitimes, autoriser les époux à résider séparément. En ce cas il statuera également sur la résidence des enfants.

Les époux ne peuvent l'un sans l'autre disposer des droits par lesquels est assuré le logement de la famille ni des meubles meublants dont il est garni. Celui des deux qui n'a pas donné son consentement à l'acte peut en demander l'annulation; l'action en nullité lui est ouverte dans l'année à partir du jour où il a eu connaissance de l'acte, sans pouvoir jamais être intentée plus d'un an après que le régime matrimonial s'est dissous

- pouvoir de contracter des obligations engageant le conjoint dans les affaires quotidiennes (Art. 220 c. civ. lux.). Art. 220. Chacun des époux a pouvoir pour passer seul les contrats qui ont pour objet l'entretien du ménage ou l'éducation des enfants; toute dette ainsi contractée par l'un oblige l'autre solidairement.

La solidarité n'a pas lieu, néanmoins, pour les dépenses manifestement excessives, eu égard au train de vie du ménage, à l'utilité ou à l'inutilité de l'opération, à la bonne ou mauvaise foi du tiers contractant.

- Elle n'a pas lieu non plus pour les obligations résultant d'achats à tempérament, s'ils n'ont été conclus du consentement des deux époux.



Malta

Same Sex Marriage is not legalised in Malta

- Legal age to be married in Malta is 16 years

- There are no rules with regards of parental consent or rights and duties of marriage

Moldova

Acc. Art.11 of the Family Code the marriage is concluded between a woman and a man. The legislation of the Republic of Moldova not foresees marriages between persons of the same sex. Art.14 of the Family Code provides for the minimum marriage of 18 years old for men and 16 for women. For serious reasons may be admitted a reduced marriage age for men, not more than with two years. Diminishing the marriage age should be permitted by a local public administrative authority in the residential area of the persons wishing to get married on the basis of their application and the agreement of teenager's parents.

Art.16. of the Family Code establishes that each person which gets married has the right to continue or to choose its own occupation. The spouses may choose on their own the place of residence. At the same time, the spouses have the common obligation to maintain the family, to take care of the children and their education and reciprocally give moral support and conjugal fidelity.

Monaco

L'âge légal du mariage est fixé à 15 ans pour les filles et à 18 ans pour les garçons.

- Les mineurs ne peuvent contracter mariage sans le consentement de l'un des deux parents donné devant l'Officier de l'Etat Civil ou par-devant le notaire avant la célébration du mariage,

- Si le père ou la mère est décédé(e) : acte de décès
- S'il n'y a ni parents, ni aïeux survivants : consentement du conseil de famille
- Enfant naturel, non reconnu ou orphelin de père et mère : autorisation du juge tutélaire qui prend l'avis du conseil de famille
- Enfants nés hors mariage : acte de naissance de l'enfant (né hors Monaco)

• Les enfants nés hors mariage pourront être légitimés par le mariage de leurs parents. Toutefois, ils devront auparavant avoir été reconnus par chacun d'eux.

S'agissant des droits et obligations du mariage, la loi susvisée a instauré une égalité entre les époux quant au choix de la résidence et aux droits et obligations relatifs à la direction de la famille.

Montenegro

A person who has not completed 18 years of age cannot enter into a marriage. As an exception, the court may allow a marriage to be entered into by a minor person older than 16 in accordance with a separate law.

RIGHTS AND DUTIES OF SPOUSES

Spouses shall be of opposite sex, equal in marriage, under an obligation to be faithful to each other, to assist and respect each other and develop and maintain harmonious marital and family relationships.

The spouses shall determine the place of residence by consent.

The spouses shall decide on upbringing of their joint children and on how they will regulate the relationships and perform tasks regarding marriage i.e. family community by consent.

When entering into a marriage the spouses may agree on surname.

Netherlands

According to Dutch law, only civil marriage is legally valid (article 1:30, paragraph 2 Civil Code)

- a marriage may be entered into by two persons of different sexes or the same sex (article 1:30, paragraph 1 Civil Code)
- capacity to marry begins at the age of 18 (article 1:31, paragraph 1 Civil Code); if the woman is pregnant, exceptions can be made if the spouses have reached the age of 16 (article 1:31, paragraph 2 Civil Code) and have the consent of their parents (article 1:35, paragraph 1 Civil Code); where other important reasons are at stake, the Minister of Justice may grant an exemption from the age requirement (article 1:31, paragraph 3 Civil Code)
- bigamy is prohibited (article 1:33 Civil Code)
- marriage between relatives in the ascending and descending line and between siblings and half-siblings is prohibited (article 1:41, paragraph 1 Civil Code)
- there is a statutory matrimonial property regime (general community of property)
- the statutory regime may be changed by pre-nuptial agreement
- spouses have a duty of fidelity and support, and to provide what is absolutely necessary (article 1:81, Civil Code)
- marriage has no impact on the surname of the spouses; spouses may however choose for one of the surnames or to use a combination of both (article 1:9, Civil Code)
- there are restrictions on the disposition of a jointly occupied dwelling and inventory (article 1:88, Civil Code) and of donations
- children born of a heterosexual marriage automatically have a family-law relationship with both parents from their birth (articles 1:197-199 (a) Civil Code). During their marriage, parents share responsibility for children from their birth (article 1:251, paragraph 1 Civil Code).

Norway

To contract a marriage in Norway is a civil act, not a religious act. The rules in the Marriage law are invariable and it is equal rules for men and women.

Before a marriage may be contracted, it shall be verified that the conditions in the Marriage Act have been fulfilled, carried out by the Population Registry. A marriage undertaken in Norway without the examination of the Population Registry will be invalid.

Under Norwegian law, the parties must, as a general rule, be at least 18 years of age to enter into marriage. Persons between 16-18 years of age may marry, but not without the consent of a parent and authorisation from the County Governor. The County Governor may only give permission where there are strong reasons for contracting a marriage.

No person may contract a marriage if a previous marriage or registered partnership subsists. This rule states clearly the monogamy principle. If the parties to the marriage have been married before, proof must be provided that the marriage has been terminated by death, divorce or dissolution. Foreign divorce certificates or decrees must be approved by the County Governor before acceptance as valid.

The law also prohibits marriage between close relatives. It means relatives in direct line of ascent or descent or between brothers and sisters. Cousin or first cousin may contract a marriage.

A foreign national who is not permanently resident in Norway must normally provide a certificate from a public authority in his or her home country stating that there is no impediment to his or her contracting marriage in Norway. This is called a certificate of no-impediment of marriage. The authorities in Norway also issue this to Norwegians which wants to marry abroad if the authorities in other countries demand for it.

A foreign national who intends to enter into marriage in Norway must prove documentation that he or she is lawfully resident in Norway. All foreign nationals who have a valid work permit, residential permit or settlement permit are in the country legally. There are also other legal grounds for residence.

When the verification authority - normally Population Registry finds that the parties to the marriage fulfil the conditions for marriage, the parties will be issued with a certificate stating that there is no impediment to their entering into marriage. The certificate is valid for four months.

Authorities competent to celebrate marriage are (solemnises):

- Public notaries,
- Priest of the Church of Norway (state church) or
- Some priest or ministers of other denominations
- Some officials of humanist or recognised non-religious organizations that receive public funding and
- Norwegian foreign service officials
- Some sjømannsprester abroad

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A marriage is contracted when the parties to the marriage come together before a solemniser of marriage. While both parties are present, they shall declare that they wish to contract a marriage with each other. The solemniser shall thereafter declare them to be married. At least two witnesses shall be present during the solemnization. The Population Registry will issue a marriage certificate when it has received notification of the marriage from the solemniser.

A marriage that is contracted outside Norway shall be recognised in the realm if the marriage has been validly contracted in the country of marriage. However, a marriage shall not be recognised if this would obviously be offensive to Norwegian public policy (order public).

A marriage that is contracted outside Norway shall not be recognised in the realm if at least one of the parties was a Norwegian national or permanent resident in the realm at the time of marriage, and:

- a) the marriage was contracted without the presence of both parties at the marriage ceremony,
- b) one of the parties was under 18 years of age, or
- c) one of the parties was already married.

At the request of both parties, however, the Ministry may recognise the marriage if there are strong reasons for doing so.

Spouses are jointly responsible for the expenses and the work required to maintain the joint household and to cover other joint needs, the upbringing of their children and the particular needs of each spouse. The spouses shall contribute by providing money, by working in the home or in some other way.

The Ministry of Children and Equality has (14. March 2008) put forward to The Norwegian Parliament proposals (white paper) regarding amendments of the Marriage Act, Adoption Act, Act on Biotechnology and the Children Act.

The proposals will:

- i) Allow couples of the same sex to enter into marriage. The proposed act would also open the way for The Church of Norway and a registered religious community to have the right – though not the obligation – to solemnize same-sex marriages. Today The Partnership Act enables two homosexual persons of same sex to enter into a registered partnership with one another. A registered partnership has the same legal consequences as a marriage, with the exception of the right to have the partnership solemnized and the right to adopt children together.
- ii) Repeal The Registered Partnership Act. Registered partners should have the possibility to convert the partnership into marriage.
- iii) Allow married couples of same sex to be evaluated as prospective adoptive parents on an equal basis with heterosexual married couples. Today a partner in a registered partnership may with the consent of the other partner adopt the latter's child, unless the child is an adopted child whose origin is a foreign state that does not permit such adoption.
- iv) Give lesbian spouses and cohabitants the same access to medically assisted reproduction as heterosexual couples and cohabitants
- v) Give children of lesbian couples conceived by medically assisted reproduction same legally protection as children born in heterosexual relationships after birth through medically assisted reproduction.

Poland

Civil marriage (Art. 1 § 1 Polish Family and Guardianship Code) and religious marriage (Art. 1 § 2, 3 Polish Family and Guardianship Code)

- spouses have to be of a different sex
- capacity to marry requires the age of 18 (Art. 10 § 1 Polish Family and Guardianship Code) the court dealing with matters relating to guardianship can make exceptions if the female spouse has reached the age of 16 (Art. 10 § 1 S. 2 Polish Family and Guardianship Code)
- prohibition of bigamous marriage (Art. 13 § 1 Polish Family and Guardianship Code)
- prohibition of marriage between relatives in straight line, between siblings and between relatives by law in straight line
- statutory matrimonial property regime of common property regime
- statutory matrimonial property regime can be changed by matrimonial contract (Art. 47 § 2 S.1 Polish Family and Guardianship Code)
- limitation on disposition of the jointly inhabited property regards donations (Art. 37 § 1 Polish Family and Guardianship Code)
- common duty to satisfy the needs of the family
- spouses are free to ascertain a common family name, to keep their surnames or to build a double name (Art. 25 § 2 Polish Family and Guardianship Code)
- duty of marital relationship, support, fidelity and collaboration for the benefits of the family (Art. 23 Polish Family and Guardianship Code)
- representation in daily matters in case of prevention of one spouse (Art. 29 S. 1 Polish Family and Guardianship Code)
- power to obligate the other spouse regards daily matters (Art. 30 § Polish Family and Guardianship Code).

Portugal

Marriage is allowed between persons of different sex over age 16

- minors need the consent of their parents
- prohibition of bigamous marriage
- prohibition of marriage between relatives in straight and collateral line till the third degree
- representation regarding the marriage ceremony is possible (Art. 1620 Portuguese CC)
- duty of mutual respect, fidelity, collaboration, support and cohabitation (Art. 1672 Portuguese CC)
- duty to provide maintenance (Art. 1675 Portuguese)
- statutory matrimonial property regime involving community of property acquired during marriage
- statutory matrimonial property regime can be changed by matrimonial contract (Art. 47 § 2 S.1 Portuguese CC)
- marriage has no influence on the surname of the spouses, but each spouse has the right to combine his (double) surname with the (double) surname of the other spouse (Art. 1677) as long as four surnames aren't exceeded
- couples "living together as husband and wife" are legally recognized and protected (but do not have the mutual obligations of married couples - see below).
- Same-sex unions have rights similar to those granted to heterosexual cohabiting partners, except for the right to adopt

Romania

The present Romanian legislation doesn't allow the marriage between the persons with the same sex.

Regarding the minimum age for marriage is 18 years. For the justified reasons, the minor with the age of 16 years can married with a medical certificate, with his parents' agreement or guardian or with the authorization of the general directorate for social assistance and child protection.

The marriage is concluded with the agreement of both future spouses. They should be presents together with two witnesses, at the town hall premises, in order to give theirs personal consent. The officer will conclude marriage certificate and will be registered in the civil status register which will be signed by spouses, witnesses and officer.

In according with the Romanian Family Code the rights and obligation to the spouses are the following:

- the men and women has the equal rights during the marriage;
- the spouses decide in common in everything related with marriage;
- the spouse decide on common agreement the family name;
- the spouse are obliged to contribute to the expenses of the marriage, accordingly with the own means;
- the goods form the marriage are common goods of the spouses.

At divorce the common goods will be shared between the spouses in according with they own consent. If is not a gentlemen agreement the goods are shared by a juridical decision.

Russian Federation

In accordance to the basics of the family legislation in Russia subject to recognition shall be only a marriage, entered into in the bodies for registering the civil status acts. The family legislation shall proceed from the necessity to consolidate the family, to build family relations on the feelings of mutual love and respect, on mutual assistance and on responsibility of all its members before the family, from the inadmissibility of anybody's arbitrary interference into the family affairs, from the need to ensure for all the family members an opportunity to freely exercise their rights and the possibility to defend these rights in court.

The rights and the duties of the spouses shall arise as from the date of an official registration of their entering into a marriage at the registry offices.

A marriage shall be concluded in the presence of the persons, entering into the marriage.

To enter into a marriage, a voluntary consent of the man and of the woman, entering into it, and their reaching the marriageable age shall be necessary.

Not to be admitted shall be entering into a marriage by:

- the persons, one of whom at least already consists in another registered marriage;
- close relations (relations by the direct ascending and descending lines - by the parents and the children, by the grandfather, the grandmother and the grandchildren), by full and by not full (having a common father or a mother) brothers and sisters);
- the adopters and the adoptees;
- the persons, one of whom at least is recognized by the court as legally incapable because of a mental derangement.

According to the Article 13 of Family Code the marriageable age shall be established as eighteen years.

In the presence of valid reasons the bodies of the local self-government at the residence of persons wishing to enter into a marriage may, at a request of such persons, permit entering into a marriage to persons who have reached the age of sixteen years.

The marriage under the marriageable age of eighteen years concerns both of spouses. The valid reasons for this are primarily the pregnancy, the birth of a child, a direct threat to the life of one of the parties, and other circumstances.

A request for the marriage of persons not reached the marriageable age can be applied not only the persons wishing to enter into a marriage, but also their parents, guardians, trustees, other persons or institutions bringing up the spouse, which is under 18. However, in the latter case the consent of the future spouses is required.

The procedure and the terms, because of whose existence a marriage may be entered into, by way of an exception, with account for specific circumstances, before reaching the age of sixteen years, may be laid down by the laws of the subjects of the Russian Federation. 11 subjects of Russian Federation have such a law.

According to the family legislation, the permission of parents is not obligatory for entering into a marriage. The bodies of the local self-government at the residence of persons wishing to enter into a marriage may, at a request of such persons, permit entering into a marriage to persons who have not reached the age of 18 years. There is common practice to request permission of parents of these persons, since they do not acquire a full legal capacity before their reaching the majority.

Due to the Article 31 of the Family Code, the spouses' personal rights and duties are based on the principle of the Spouses' Equality in the Family.

Each of the spouses shall be free to choose the kind of an occupation and a trade, as well as the places of stay and of residence.

The issues of the motherhood and of the fatherhood, of the children's upbringing and education, and other issues, involved in the life of the family, shall be resolved by the spouses jointly, proceeding from the principle of the spouses' equality.

The spouses shall be obliged to build their relations in the family on the basis of mutual respect and mutual assistance, to facilitate the welfare and the consolidation of the family, and to take care of their children's well-being and development.

When entering into a marriage, the spouses shall opt for a surname of one of them as a common surname according to their wish, or each of the spouses shall retain his own, pre-marriage surname, or may add to his own surname that of the other spouse.

The change of the surname by one of the spouses shall not entail the change of the surname of the other spouse.

Property relations between spouses can be divided into 2 groups:

- relations on spouses property;

- The Alimony Obligations

The property, acquired by the spouses during their marriage, shall be their joint property.

To the property, acquired by the spouses during their marriage (to the spouses' joint property) shall be referred the incomes of each of the spouses from his labour activity, from his business activity and from the results of his intellectual activity, the pensions and the allowances, received by both of them, and also the other monetary receipts, which are not specially target-oriented (the sums of the material assistance, etc.).

The spouses' joint property shall also be the movable and the immovable things and securities, acquired at the expense of their joint incomes, the participation shares, the deposits and the shares in the capital, put into credit institutions or into other kinds of commercial organizations, and any other property, acquired by the spouses in the period of their marriage, regardless of the fact, to the name of which of the spouses it was acquired or to the name of which of the spouses the monetary means were put in.

The right to the spouses' joint property shall also be enjoyed by the spouse, who kept the house or who looked after the children in the period of the marriage, or who did not have an independent income because of other valid reasons.

The spouses' joint property shall be possessed, used and disposed of by the mutual consent of the spouses.

When one of the spouses makes deals, involved in the disposal of the spouses' joint property, it shall be assumed that he acts with the consent of the other spouse.

A deal, effected by one of the spouses, involved in the disposal of the spouses' joint property, may be recognized as invalid by the court on the motives of the absence of the other spouse's consent only upon his claim and only if it is proved that the other party to the deal was aware or should have been aware of the other spouse's non-consent to making the given deal.

For one of the spouses to effect a deal, involved in the disposal of the immovable property, and also a deal, requiring the notarial certification and (or) the registration in conformity with the law-established procedure, it shall be necessary to obtain a notarially certified consent of the other spouse.

The spouse, whose notarially certified consent to making the given deal was not obtained, shall have the right to demand that the deal be recognized as invalid by the court within a year from the date, when he has learned or when he should have learned about

the performance of the given deal.

The property, which belonged to each of the spouses before his entering into the marriage, and also the property, received by one of the spouses during their marriage by way of inheritance or by other gratuitous deals (the property of each of the spouses), shall be his own property.

The things of an individual use (the clothes, footwear, etc.), with the exception of jewels and other luxury articles, even though acquired in the period of the marriage at the expense of the spouses' common means, shall be recognized as the property of that spouse, who has used them.

Exclusive right on the results of intellectual activity of one of the spouses belongs to the author of these results.

The property of each of the spouses may be recognized as their joint property, if it is established that in the period of the marriage at the expense of the spouses' common property or of the property of each of the spouses, or of the labour of one of the spouses the deposits were made, which considerably increased the value of this property (the capital repairs, the reconstruction, re-equipment, etc.).

The division of the spouses' common property may be effected both in the period of the marriage and after its dissolution upon the demand of one of the spouses, and also if the creditor makes a claim for the division of the spouses' common property in order to turn the exaction onto the share of one of the spouses in the spouses' common property.

When dividing the spouses' common property and delineating the shares in this property, the spouses' shares shall be recognized as equal, unless otherwise stipulated by the contract, concluded between the spouses.

The court shall have the right to depart from the principle of equality of the spouses' shares in their common property, proceeding from the interests of the under-aged children and (or) from the essential interests of one of the spouses, in particular, in the cases, when the other spouse did not derive any incomes because of invalid reasons, or if he squandered the spouses' common property to the detriment of the interests of the family.

According to Chapter 8 of the Family Code, spouses may sign the Marriage Contract on subject of property relations.

The marriage contract shall be recognized as an agreement between the persons, entering into a marriage, or an agreement between the spouses, defining the spouses' property rights and duties in marriage and (or) in the case of its dissolution.

The marriage contract may be signed both before the state registration of the marriage and at any time in the period of the marriage.

The marriage contract shall be concluded in written form and shall be subject to the notarial certification.

The spouses shall have the right to amend the law- established regime of the joint property by the marriage contract, to establish the regime of the joint, share or separate ownership over the entire spouses' property, over its individual kinds, or over the property of each of the spouses.

The marriage contract may be concluded both with respect to the existing and to the future property of the spouses.

The spouses shall have the right to define in the marriage contract their rights and duties, involved in the mutual maintenance, in the ways of taking part in each other's incomes and in the way each of them bears family expenses; they shall have the right to delineate the property, which shall be transferred to each of the spouses in case of the dissolution of their marriage, and also to include into the marriage contract any other provisions, related to the spouses' property relations.

The rights and the duties, envisaged by the marriage contract, may be restricted to definite terms or may be made dependent on the arising or the non-arising of certain conditions.

The marriage contract shall not restrict the spouses' legal capacity or active capacity and their right to turn to the court for the defence of their rights; regulate the personal non-property relations between the spouses, their rights and duties with respect to the children; stipulate the provisions, restricting the right of the disabled needy spouse to obtain a maintenance; or contain other terms, which put one of the spouses into an extremely unfavourable situation or which contradict the fundamental principles of the family legislation.

The marriage contract may be amended or dissolved at any time by an agreement between the spouses. The agreement on the amendment or on the dissolution of a marriage contract shall be made out in the same form as the marriage contract itself.

A unilateral refusal to execute a marriage contract shall not be admissible.

The court may also recognize the marriage contract as invalid fully or in part upon the claim of one of the spouses, if the terms of the contract put this spouse into an extremely unfavourable situation.

Chapter 14 of the Family Code regulates the Spouses' Duties by the Mutual Maintenance. The spouses shall be obliged to materially support each other. In case of the refusal to render such support and in the absence of an agreement between the spouses on the payment of the alimony, the right to claim for the alimony through the court from the other spouse, who possesses the necessary means for this, shall be enjoyed by the needy disabled spouse: the wife in the period of pregnancy and in the course of three years, after the birth of the common child; the needy spouse, looking after the common invalid child, until the child reaches the age of 18 years, or after the common child - the 1st group invalid from childhood.

In the absence of an agreement between the spouses on the payment of an alimony, the amount of the alimony, to be exacted from the spouse through the court, shall be defined by the court, proceeding from the material situation and the family status of the spouses and from the other interests of the parties, worthy of attention, as a fixed monetary sum, subject to the monthly payment.

The court may relieve the spouse of the duty to maintain the other disabled spouse in need of assistance, or restrict this duty by a

definite term, both in the period of the marriage and after its dissolution, if:

- the disableness of the spouse in need of assistance has set in as a result of the abuse of strong drinks or drugs, or as a result of his committing a premeditated crime;
- a short term of the spouses' marriage;
- a mean behaviour in the family of the spouse, who claims an alimony.

Serbia

Marriage, age limit for getting married, parental acceptance for marriage of minors, rights and obligations, are regulated by the Family Law of Republic of Serbia.

Marriage is defined by law as a community between man and woman - from which it can be concluded that marriage between members of the same sex is not allowed. Marriage can be made only based on the free will of future marriage partners. Partners are equal in marriage.

In Republic of Serbia, marriage cannot be concluded if there is no free will and if the person is less than 18 years of age with an exception - the court can allow marriage to a person younger than 18 years, but has turned 16, if he/she has achieved physical and mental maturity necessary for marriage.

Marriage partners are free to decide on their own about their profession and to agree on the place of living and managing the household. Marriage partners are obligated to financially support each other, their properties can be common or separate and they can define their property matters through marriage contract.

Slovakia

Civil or religious marriage

- spouses have to be of a different sex
- capacity to marry requires the age of 18, from the age of 16 on a marriage is possible by court decision
- representation regards the marriage ceremony is possible (§ 8 Slovakian Family Code)
- prohibition of bigamous marriage
- prohibition of marriage between relatives in descending and ascending line and between siblings
- statutory matrimonial property regime of common property regime (§§ 143-151 Slovakian CC)
- content of common property can be modified by matrimonial contract but the statutory regime can not be abolished
- duty of cohabitation, fidelity, respect each other's dignity and support (§§ 18-20 Slovakian Family Code)
- Marriage is a legal act to contract marriage. It is an union of man and woman created on the basis of their voluntary and free decision to contract marriage (§ 1 of the Family Code).

Slovenia

The Marriage and Family Relationship Act (Uradni list RS, št. 69/2004 UPB) in Article 2 stipulates that a family is a living community of parents and children which, because of the benefit of children, experiences special social protection.

In addition to providing for the registration of same-sex partnerships, the Registration of a Same-Sex Civil Partnership Act (Ur. l. RS, 65/2005) has certain legal consequences (regarding property and the right and obligation of maintenance) and stipulates that regulations in other areas of law lay down legal consequences.

Spain

Civil or religious marriage

- marriage can be concluded between persons either of different or the same sex (Art. 44 CC) Art. (marriage between persons of the same sex since art. 44 modified by Law 13/2005 of 1st of July) .
- capacity to marry requires the age of 18, exceptions can be made by the court for spouses from the age of 14 on (Art. 48 para. 2 Spanish CC) or if the minor is emancipated due to other reasons
- prohibition of bigamous marriage (Art. 46 Spanish CC) (cannot get married persons that are already linked by marriage to another person).
- prohibition of marriage between relatives in straight line and between relatives in collateral line till the third degree (Art 47 Spanish CC) with the possibility of exceptions (third degree by court) (Art. 48 2nd Spanish CC)
- representation regards the marriage ceremony is possible (Art. 55 Spanish CC)
- duty of respect, support, thoughtfulness, cohabitation and fidelity (Art. 66-68 Spanish CC) Art. 68 of CC modified by Law 15/2005 includes the duty to share domestic responsibilities, the care and attention to descendants and ascendants and other dependent persons under their responsibility.
- statutory matrimonial property regime of matrimonial regime involving community of property acquired during marriage (Art. 1316 Spanish CC)
- statutory matrimonial property regime can be changed by matrimonial contract (Art. 1315 Spanish CC)
- statutory authority of one spouse to buy necessities in name of the other (Art. 1319 para. 1 Spanish CC)
- limitation on disposition of the jointly inhabited property and inventory (Art. 1320 Spanish CC)
- duty to provide maintenance (Art. 143 Nr. 1 Spanish CC)
- marriage has no impact on the surname, but each spouse has the right to add the surname(s) of the other spouse to is own surname.

Sweden

Civil or religious marriage

- spouses have to be of a different sex, amendment under preparation.
- ability to marry requires the age of 18, under special circumstances dispensation can be given (Swedish Marriage Act, Section 2, para 1) by the county administrative board,
- prohibition of bigamous marriage (Swedish Marriage Act, Section 2, para 4)
- prohibition of marriage between direct ascendants or descendants or between siblings.
- duty of fidelity, thoughtfulness, and cohabitation (Swedish Marriage Act, Section 1, para:2)
- spouses are free to choose a common name or keep their surnames : one spouse can build a double name
- duty of maintenance (Swedish Marriage Act, Section 7, para 1, Section 1 para 4)
- statutory matrimonial property regime of separation of property with equalisation of net property gains at the end of the marriage (Swedish Marriage Act, Section 27, para 1)
- matrimonial property regime can be altered by matrimonial contract
- limitation on disposition of the jointly inhabited property (Swedish Marriage Act, Section 7, para 5) and inventory (Swedish Marriage Act, Section 7, para 9)

Switzerland

Il n'y a pas de mariage pour les homosexuels, mais la loi fédérale sur le partenariat enregistré entre personnes du même sexe, entrée en vigueur le 1.1.2007, permet aux couples homosexuels de faire enregistrer leur partenariat à l'office de l'état civil et de lui donner une assise juridique. Les personnes ayant fait enregistrer leur partenariat s'engagent à assumer l'une envers l'autre les droits et les devoirs qui, en matière d'imposition, d'héritage et d'assurances sociales, reçoivent le même traitement juridique que les couples mariés. Par contre, la LPart ne permet pas à deux personnes du même sexe d'adopter un enfant, elles ne peuvent pas non plus avoir recours à la procréation médicalement assistée.

L'âge légal du mariage est fixé à 18 ans (majorité civile), sans exception.

La personne sous tutelle doit avoir le consentement de son tuteur.

Droits et devoirs des époux: notamment, les époux s'obligent mutuellement à assurer d'un commun accord la prospérité de l'union conjugale et à pourvoir ensemble à l'entretien et à l'éducation des enfants.

Turkey

The Turkish Civil Code regulates only hetero sex marriage. Conditions for a valid marriage is mental capacity, age and non existence of marriage impediments. The first condition is the mental capacity. Person with sufficient mental capacity can marry. Incapacity which prevents mature judgement is a bar to marriage. "Those persons only who have discretion can contract a marriage" states the Article 125 of the Civil Code.

Second condition is the age. "The minimum age for marriage is seventeen for both the groom and bride." (Article 124) "In case of a person under the age of seventeen, the consent of the parents or the guardian is necessary."(Art 124/2) "In exceptional cases a special consent to marriage can be given by the competent judge, if the parties have at least completed the age of sixteen" (Art. 124/2)

Thirdly, absence of blood relationship and absence of existence of previous marriage are the conditions of a valid marriage. The Turkish Civil Code prohibits marriage within certain prescribed degrees of consanguinity. "Marriage is prohibited: between relatives by blood in the direct ascending or descending line, between brothers and sisters and between uncle and niece or aunt and nephew; between relatives by marriage in the direct ascending or descending line, even if the marriage that joins them has been dissolved; between parent and his adopted child or between the descendant of these and the spouse of the other according to the Article 129 of TCC.

The Parties thereby mutually bind themselves to cooperate with each other in safeguarding the interests of the marriage and in carrying and providing the needs and training of their children. They owe each other fidelity and assistance as well as cohabitation (Article 185/2). The contents of this provision are both legal duties and rights vis-à-vis the spouses. They comprise of mutual fidelity, support, assistance and the duty of cohabitation.

"All persons who wish to contract a second marriage must prove that their previous marriage has been terminated" states Article 130. "Married woman whose marriage has been dissolved cannot contract another marriage before the expiration of three hundred days from the date of the dissolution." states the Article 132. Non existence of a delay period is not absolute. Additionally, there are formal requirements for marriage but a marriage concluded by the authorized official can not be annulled by the reason of violating other statutory formal requirement.

Ukraine

Marriage is possible from 18 men and from 17 women
- Women and men have equal rights and duties of marriage

United Kingdom

1. England and Wales
- civil or religious marriage

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- capacity to marry requires the age of 16, minors need the consent of their parents
- prohibition of bigamous marriage
- prohibition of a marriage between relatives in straight line or in collateral line till the second degree
- marriage has no impact on the property regime
- duty to provide maintenance
- marriage has no impact on the surnames; principle of freedom to choose every name

2. Scotland

- civil or religious marriage
- capacity to marry requires the age of 16
- spouses have to be of a different sex
- prohibition of bigamous marriage
- prohibition of a marriage between relatives in straight line or in collateral line till the second degree
- marriage by cohabitation with habit and repute (until 2006)
- marriage has no impact on the property regime
- duty to provide maintenance (s. 1 Scottish Family Law Act 1995)

UK

Since the Civil Partnership Act 2004 came into force in 2005, same sex couples have been able to register a civil partnership giving the same rights as a married couple in areas like tax, social security, inheritance and workplace benefits.