



Name of Country and Jurisdiction:

Switzerland



- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to Switzerland, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Switzerland for an authority to grant a divorce/ dissolution?



1. What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Switzerland	Swiss Civil Code.	No
<i>De facto</i> , not registered	Switzerland		Yes

Registered partnership (*partenariat enregistré*) is recognized for same-sex couples under the Swiss Partnership Act (*Loi fédérale sur le partenariat enregistré entre personnes du même sexe (LPart)*).

Q

2. What are the requirements to be able to enter into the above relationship?

A

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Registered partnership	At least one party must have Swiss citizenship or reside in Switzerland.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Registered partnership	<ul style="list-style-type: none"> The parties must be at least 18 years old and must not be incapacitated. An application must be filed with the public register.

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3. If both marriage and civil unions exist:

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

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(a)–(c)	Not applicable; same-sex marriage is not available in Switzerland.
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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Registered partnership	A person cannot enter into a registered partnership if he or she is already married or has a registered partnership with a third party.

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5. When a couple comes to Switzerland, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> A foreign-formed, valid same-sex marriage is recognized as a valid registered partnership if it is not in violation of public policy (<i>ordre public</i>). Under the public-policy doctrine, foreign law is not to be applied if its application would lead to results that are contrary to basic principles of Swiss law (e.g., a marriage concluded under foreign law that is the second marriage for one of the spouses (bigamy) or was imposed on one of the spouses by force).
Registered partnership	<ul style="list-style-type: none"> A foreign-formed, valid civil union is recognized as a valid registered partnership if it is not in violation of public policy (<i>ordre public</i>). Under the public-policy doctrine, foreign law is not to be applied if its application would lead to results that are contrary to basic principles of Swiss law. See the examples provided with respect to marriage, above.

Q

6. How can each form of relationship be dissolved? What is the residency requirement or other link to Switzerland for an authority to grant a divorce/ dissolution?

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> Where the spouses jointly request divorce and submit a comprehensive agreement on the consequences of the divorce along with any necessary documents and with joint applications with respect to the children, the court shall hear the spouses separately and together. If the court is persuaded that desire for divorce and the agreement are the product of free will and careful reflection and that the agreement with the applications with respect to the children may be approved, the court shall issue the divorce decree. A unilateral application is possible after two years' separation. A hardship clause exists for irretrievable breakdown. (Articles 111–115 of Swiss Civil Code).
Registered partnership	<p>As with marriage, partners may jointly apply for dissolution, which must be granted if the court is convinced that the application has been made voluntarily and after careful consideration.</p> <p>A unilateral application is possible after one year's separation.</p>

■ Sources:

Primary

- Switzerland's Civil Code, *available at* <http://ceffonline.net/wp-content/uploads/Switzerland-IR-Legislation-Civil-Code.pdf>.
- Switzerland's Partnership Act, *available at* <https://www.admin.ch/opc/fr/classified-compilation/20022194/index.html>.
- Switzerland's International Private Law (IPRG), *available at* <https://www.admin.ch/opc/de/classified-compilation/19870312/201704010000/291.pdf>.

Secondary

- Frederik Swennen & Sven Eggermont, Same-Sex Couples in Central Europe: Hop, Step and Jump, *in Legal Recognition of Same-Sex Relationships in Europe: National, Cross-Border and European Perspectives* (K. Boele-Woelki & A. Fuchs eds., 2012).
- D. Trachsel, *Schweiz*, *in Ausländisches Familienrecht* (J. Rieck Hrsg., 10. *Ergänzungslieferung* 2013), Rn 27–28.