



Name of Country and Jurisdiction:

Colombia

- 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 Colombia, 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 Colombia 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?
Civil marriage, registered	Colombia	Civil Code of Colombia (“Civil Code”) and decision by Colombian Constitutional Court as of April 28, 2016.	Yes
Domestic partnership	Colombia	Law 54/1990 of December 28 and article 42 of the Colombian Constitution.	Yes

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

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(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage	At least one party must have been a resident of the city where the marriage will take place for a minimum period of six months previous to the marriage.
Domestic partnership	Both parties must be located in the same city, in order to show an effective coexistence between them. A Colombian national living overseas can ordinarily formalize a domestic partnership in the Colombian embassy or consulate of the overseas territory. Either institution can perform as a notary, with the same effect that the formalization would have had in Colombia. However, a domestic partnership will not be recognized if the parties do not live in the same city at the moment of formalization.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage	Both parties to the marriage must: <ul style="list-style-type: none"> • Be at least 18 years of age on the day of the marriage or have parental authorization; • Be unmarried; • Express consent before the competent authority (judge or notary); and • Be capable of understanding and consenting to marrying. <p>A marriage license may be obtained before either a notary or a court:</p> <ol style="list-style-type: none"> 1) Before a notary: Once the required documentation and copies are submitted to the notary, a five-day period begins during which any personal opposition to the marriage may be made known. If any opposition is received, the notary will submit the case to a Civil Court for resolution. 2) Before a court: Once the required documentation is received by the Civil Courts' registry, it will be sent to a random Civil Court that will study the case. The judge-in-charge will issue a resolution considering the marriage to be either <i>accepted</i>, <i>uncompleted</i> (so designated if any of the formal requisites have not been met on a timely basis, in which case a short period of time will be given to correct these deficiencies), or <i>rejected</i>; the right to appeal the decision exists. Once the documentation has been reviewed and accepted by the judge-in-charge, a 15-day period begins during which personal opposition to the marriage may be made known. If there is no opposition, the judge-in-charge will carry out the ceremony.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Domestic partnership	<p>In addition to the basic eligibility criteria above, both opposite-sex and same-sex couples must prove the existence of a “domestic union,” or coexistence, which differs from a “domestic economic union.” The existence of a domestic union must be proved before the notary by:</p> <ul style="list-style-type: none"> • Free manifestation of life in common (can be expressed through public deed if the parties express mutual consent). • Conciliation minute (cannot be expressed through public deed, and no mutual consent is required). <p>Community assets will be presumed between the parties when:</p> <ul style="list-style-type: none"> • There has been a domestic relationship between the parties for at least two years, without any marital impediment. • There has been a domestic relationship for at least two years, without any marital impediment, but assuming that their previous marriage assets have been dissolved and liquidated one year before the start of the domestic relationship’s coexistence.

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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)	
(b)	A previous domestic partnership does not prevent the parties from entering a civil marriage (with the same or even a different person). In this case, all domestic partnership effects automatically cease. In addition, a previous domestic partnership does not prevent a person from entering into a domestic partnership with a different person.
(c)	Although there are many differences between these relationships, the Constitutional Court issued a number of resolutions that granted equal rights to same-sex couples (e.g., civil obligation to pay maintenance (alimony), migration rights to acquire Colombian nationality, the right to not incriminate same-sex partners, and eligibility for government benefits for family housing). Nevertheless, these court decisions are generally not reflected in Colombian statutory laws.

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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage	No person may enter into a marriage if he or she is already married; it will be necessary to dissolve the previous marriage by divorce.
Domestic partnership	No pre-existing relationship makes a person ineligible; however, if a marriage enters into effect during a domestic partnership, the domestic partnership automatically ceases.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage	<p>Opposite-sex marriages entered into effect overseas can be recognized in Colombia. However, it is necessary to formalize all documents related to the overseas country's marriage through the Hague Apostille (if the overseas country is a member of the Hague Convention) or through legalization, as appropriate.</p> <p>Same-sex marriages entered into effect in a country where such marriages are legally regulated will not be valid in Colombia.</p>
Domestic partnership	Foreign-formed domestic partnerships or similar relationships are recognized in Colombia if all documents are correctly formalized as indicated above. Said provisions are applicable for opposite-sex and same-sex domestic partnerships.



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage	<p>If both spouses agree to the divorce, the divorce can be formalized by joint declaration presented to a public notary. If the divorce is sought unilaterally by one spouse, the proceedings must be handled in court and assessed by a judge.</p> <p>Apart from natural ways of dissolution (e.g., the death of one/both parties), a civil marriage can be brought to an end by divorce if any cause stated in article 154 of the Civil Code arises:</p> <ul style="list-style-type: none"> a) Extramarital affairs of one of the spouses. b) Serious noncompliance of the duties established by law for the spouses. c) Any physical or psychological abuse. d) Customary use of narcotic substances, unless such use is part of a medical treatment. e) A spouse's serious disease, physical or psychological, that could damage the other's physical or psychological health or make the domestic relationship impossible. f) The efforts of a spouse to corrupt the other, a descendant, or another person under his/her care who is living in the same house. g) An effective separation of the spouses, judicially or <i>de facto</i>, for more than two years. h) Mutual consent expressed before the judge and acknowledged through a judicial resolution. <p>These causes must be properly proved by the party seeking the divorce.</p>
Domestic partnership	<p>According to article 5 of the above-mentioned Law 54/1990 of December 28, a domestic partnership can be dissolved if:</p> <ul style="list-style-type: none"> • One or both domestic partners die; • One or both domestic partners get married; • Mutual consent is materialized through a public deed; or • There is a judicial resolution. <p>After the coexistence ceases, domestic partners have one year to claim their rights before a Civil Court. Once the year has elapsed, no legal action will apply.</p>



■ Sources:

Primary

- Colombia Constitution, available in English at http://confinder.richmond.edu/admin/docs/colombia_const2.pdf.
- Colombia Civil Code, available at https://www.oas.org/dil/esp/Codigo_Civil_Colombia.pdf.
- Law 54/1990 of December 28, available at <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=30896>.
- Judgment C-577/2011, available at <http://www.corteconstitucional.gov.co/relatoria/2011/c-577-11.htm>.

Secondary

- *Matrimonio Igualitario* [Equal Marriage] (Nov. 19, 2015), <http://www.matrimonioigualitario.org>.
- *Divorcio en Colombia* [Divorce in Colombia], <http://www.divorcioencolombia.com>.
- *Juez de Bogotá celebrará el primer matrimonio homosexual en Colombia* [Bogotá judge to celebrate first gay marriage in Colombia], *El Espectador* (July 12, 2013), <http://www.elespectador.com/noticias/actualidad/juez-de-bogota-celebrara-el-primer-matrimonio-homosexua-articulo-433299>.
- *Tutela de Procuraduría tumbó primer matrimonio gay en Colombia*, *El Tiempo* (Oct. 2, 2013), <http://app.eltiempo.com/archivo/documento/CMS-13096688>.
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- Michael K. Lavers, *U.S. groups file briefs in Colombia marriage case*, *Washington Blade* (Apr. 24, 2014), <http://washingtonblade.com/2014/04/24/u-s-groups-file-briefs-colombia-marriage-case>.
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