



Name of Country and Jurisdiction:

Belgium

- 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 Belgium, 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 Belgium 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	Belgium	<i>Code Civil</i> [C.Civ.] arts. 144–227 (Belg.)	Yes
Legal cohabitation (<i>cohabitation légale</i>)	Belgium	<i>Code Civil</i> [C.Civ.] arts. 1475–1479 (Belg.)	Yes ¹

¹ Legal cohabitation does not require a sexual relationship between the parties. To enter into a legal cohabitation, persons must: (1) be of age; (2) not be bound by another marriage or legal cohabitation; and (3) live together at the same address. Thus, a nonmarried same-sex couple, a nonmarried opposite-sex couple, or two related persons (e.g., two siblings of age or a grandparent and a grandchild of age) may enter into a legal cohabitation.

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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
Marriage, registered	<p>At least one of the parties must be a Belgian citizen or have been a Belgian resident for at least three months at the time of marriage.</p> <p>Belgian citizens living in a country that lacks a civil registry system can marry only under Belgian law at the Belgian consulate or embassy. Otherwise, Belgian citizens abroad may marry before competent local authorities.</p> <p>See <i>Belgian weddings: Getting married in Belgium</i>, Expatica, http://www.expatica.com/be/family-essentials/Getting-married-in-Belgium__106060.html.</p>
Legal cohabitation	<p>Both parties must be Belgian residents at the time of the registration of the legal cohabitation.</p> <p>See <i>Code Civil</i> [C.Civ.] arts. 1475–1476 (Belg.); Kees Waaldijk, <i>More or Less Together: Levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners</i>, 50 (2005), https://www.ined.fr/fichier/s_rubrique/19409/document_de_travail_125.fr.pdf.</p>

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>In general, persons must be at least 18 years old to enter into marriage. However, minors at least 16 may enter into a marriage if they have parental consent and a court order. No marriage can be concluded without mutual consent of both parties. Also, if one of the parties has been previously married, proof must be furnished of the dissolution of the former marriage. Marriage is precluded between all ascendants and descendants in the direct bloodline (and spouses of such ascendants and descendants), brothers and sisters, and uncles or aunts with their nieces or nephews. See <i>Code Civil</i> [C.Civ.] arts. 144–148, 161 (Belg.).</p>
Legal cohabitation	<p>Persons capable of entering into a contract can form and register a contract for legal cohabitation, and a person younger than 18 or otherwise incapable of contracting can enter into a cohabitation agreement with court approval. Legally cohabiting with someone does not prevent a person from marrying, but the marriage would automatically dissolve the legal cohabitation. One cannot enter into a legal cohabitation while married. A person can be party to only one cohabitation contract at a time.</p> <p>See Frederik Swennen & Yves-Henri Leleu, <i>National Report: Belgium</i>, 19 J. Gender, Soc. Pol’y & L. 57, 72–73 (2011), http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1463&context=jgspl; <i>Legal Cohabitation: Declaration of legal cohabitation; conditions required in order to make this declaration</i>, Schaerbeek, http://www.schaerbeek.be/en/administrative-procedures/civil-status-identity-nationality/family/legal-cohabitation.</p>

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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; civil unions as such do not exist in Belgium.
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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
Marriage, registered	A person presently married cannot enter into another marriage. See <i>Code Civil</i> [C.Civ.] art. 147 (Belg.).
Legal cohabitation	A person presently married or in a legal cohabitation contract cannot enter into another legal cohabitation contract. See <i>Code Civil</i> [C.Civ.] art. 1475 (Belg.).

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5. When a couple comes to Belgium, 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
Marriage, registered	<p>A foreign marriage certificate may be recognized in Belgium if the basic conditions for marriage applicable in the spouses' country have been met and if the official formalities of the country where the marriage was solemnized have been carried out. A foreign marriage certificate can be transcribed into the civil status registers of a Belgian municipality.</p> <p>See <i>Marriage</i>, Kingdom of Belgium, Federal Public Service Foreign Affairs, http://diplomatie.belgium.be/en/services/services__abroad/registry/marriage.</p>

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Registered partnership	<p>A registered partnership entered into abroad is equivalent to marriage in Belgium if it was registered in compliance with legislation in Denmark, Finland, France, Germany, Iceland, Norway, Sweden, or the U.K. In such a case, the same immigration rights are given to both partners. Other registered partnerships may be subject to additional requirements regarding immigration status.</p> <p>See <i>Family Reunification</i>, Commissioner.Brussels, http://www.commissioner.brussels/i-am-an-expat/residence-formalities/ue-citizen/78-residence-formalities-ue/81-family-reunification.</p>

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>Divorce is always pronounced by a tribunal. However, if the spouses mutually consent to the divorce, a public notary can document their separation. The role of the judge is then simply to ratify this agreement.</p> <p>Proceedings may be brought before a court if:</p> <ul style="list-style-type: none"> • The spouses are Belgian residents; • The most recent shared residence of the spouses was in Belgium, and one of them is still a Belgian resident; • Both spouses are Belgian citizens, even if they live in a foreign country; • The defendant is a Belgian resident; • In the case of joint application, one of the spouses is a Belgian resident; • The plaintiff resides in Belgium and has done so for at least a year prior to the date of application; or • The plaintiff has been a Belgian resident for at least six months prior to the date of application. <p>See <i>Code Civil</i> [C.Civ.] arts. 227–309 (Belg.)</p>
Legal cohabitation	<p>A legal-cohabitation contract may be terminated mutually or unilaterally upon written declaration without the need to provide justification if: (1) either party marries another person or the cohabitants marry each other; or (2) one of the cohabitants dies. A Belgian registrar can record the termination of a cohabiting relationship only if it was registered in Belgium. See <i>Code Civil</i> [C.Civ.] art. 1476 § 2 (Belg.).</p>

■ Sources:

Primary:

- *Code Civil* [C.Civ.] arts. 144–309 (Belg.), <http://www.droitbelge.be/codes.asp#civ>.
- *Code Civil* [C.Civ.] arts. 1475–1479 (Belg.), http://www.wipo.int/wipolex/en/text.jsp?file_id=262955.
- European Commission, Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships, COM (2011) 127 final (Mar. 16, 2011), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52011PC0127>.
- Code of Private International Law [C. Priv. Int. L.] arts. 42–60 (Belg.), <http://www.ipr.be/data/B.WbIPR%5BEN%5D.pdf>.

Secondary:

- Kees Waaldijk, *More or Less Together: Levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners*, 49–64 (2005), https://www.ined.fr/fichier/s_rubrique/19409/document_de_travail_125.fr.pdf.
- Frederik Swennen & Yves-Henri Leleu, *National Report: Belgium*, 19 J. Gender, Soc. Poly & L. 57 (2011), <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1463&context=jgspl>.
- *Belgian weddings: Getting married in Belgium*, Expatica, http://www.expatica.com/bel/family-essentials/Getting-married-in-Belgium_106060.html.
- *Marriage*, Kingdom of Belgium, Federal Public Service Foreign Affairs, http://diplomatie.belgium.be/en/services/services_abroad/registry/marriage.
- *Marriage, Civil Partnerships and Cohabitation in Belgium*, Angloinfo, <https://www.angloinfo.com/belgium/how-to/belgium-family-marriage-partnerships>.
- *Legal Cohabitation: Declaration of legal cohabitation; conditions required in order to make this declaration*, Schaerbeek, <http://www.schaerbeek.be/en/administrative-procedures/civil-status-identity-nationality/family/legal-cohabitation>.
- *Family Reunification*, Commissioner.Brussels, <http://www.commissioner.brussels/i-am-an-expat/residence-formalities/ue-citizen/78-residence-formalities-ue/81-family-reunification>.