



Name of Country and Jurisdiction:

France

- 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 France, 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 France 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	Metropolitan France [Continental Europe] and Overseas French Departments and Territories [Guadeloupe, French Guiana, French Polynesia, Mayotte, French Southern and Antarctic Lands, Martinique, New Caledonia, Réunion, Saint-Barthélemy, Saint-Martin, Saint-Pierre and Miquelon, and Wallis and Futuna]	LOI n° 2013-404 du 17 mai 2013 ouvrant le mariage aux couples de personnes de même sexe <i>Law No. 2013-404 of 17 May 2013 Opening Marriage to Couples of Persons of the Same Sex</i> [NB: Unavailable in French Polynesia]	Yes

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LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Pacte Civil de Solidarité <i>Civil Solidarity Pact a.k.a "PACS"</i>	France and Overseas French Departments and Territories [same as previous, but not French Polynesia]	Loi n° 99-944 du 15 novembre 1999 relative au pacte civil de solidarité <i>Law No. 99-944 of 15 November 1999 relative to the Civil Solidarity Pact</i>	Yes (available to same-sex and opposite-sex couples)



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

- (i) If a geographic link is required:



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	See below, at least one partner must legally reside in France.
PACS	See below, at least one partner must legally reside in France.

(ii) If other substantive eligibility criteria must be satisfied:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>To arrange a marriage in France, either partner must apply at least a month in advance to the town hall where they normally live (they must have lived there for at least 40 days – 30 days’ residence plus ten days for publication of the banns). The partners must each provide at least one witness and may provide two, whose names must be given to the town hall when the wedding is arranged. Both partners must also provide passports, residence permits (if applicable), birth certificates (stamped by their country’s local consulate not more than six months previously), proof of residence in France, and a medical certificate issued within the previous two months (see below). A divorced or widowed person must provide a divorce or death certificate.</p> <p>One may also be required to produce a certificat de celibat¹ no more than three months old, provided by your embassy and a notarised ‘affidavit of law’ (certificat de coutume), drawn up by a lawyer in your home country, to confirm that you are free to marry. All documents must be ‘legalised’ in your home country and translated into French by an approved translator.</p> <p>No more than two months before marrying, a couple must undergo a medical examination (certificat d’examen médical prénuptial), including a blood test and chest X-ray. The cost is reimbursed by social security. The medical was originally intended to check compatibility between the blood groups of a couple, although with the advent of AIDS it has taken on a new significance. The results are confidential and cannot prevent a wedding from taking place. If a divorced or widowed woman wishes to remarry within 300 days of the divorce or death, she must provide a medical certificate verifying that she is not pregnant.</p> <p>The couple will then be issued with a pre-marital certificate. Notification of an impending wedding (bans) must be published ten days before the ceremony at the town hall where the wedding is to take place.</p> <p>A civil ceremony, presided over by the mayor or one of his deputies, must be performed in France to legalise a wedding. Although around 50 per cent of couples choose to undergo a church ‘blessing’ ceremony, it has no legal significance and must take place after the civil ceremony. There is not a fee for a marriage in France, although most town halls make a collection in aid of local charities.</p> <p>Copies of the marriage certificate can be obtained at the mairie (mayor’s office). Married couples are given a ‘family book’ (livret de famille) in which all official family events such as the birth of children, divorce, or deaths are recorded.</p>

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¹ This means that you produce a certificate that you are not already married, not that you are celibate.

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
PACS	<p>Any two unmarried adult persons (over the age of 18) who want to live together can contract a PACS, on condition they share common housing and are neither direct ascendants or descendants (mother, grandfather or child), nor too close relatives (brother, uncle or niece).</p> <p>Cohabiting partners may sign a pacte civile de solidarité (PACS), which protects the individual rights of each party and entitles partners to share property rights and enjoy income tax benefits. To make a PACS, the couple must go to the local tribunal d'instance (listed in the phone book) and submit a written statement that you wish to draw up a PACS under law no. 99-944 of 15th November 1999, including details of the division of possessions between you. There is no standard form for this application.</p> <p>The couple must also provide identification, birth certificates, a certificate from the relevant tribunal d'instance confirming your place of birth, and 'sworn statements' (attestation sur l'honneur) that the couple lives in the area and that there are no legal impediments to your making a PACS (e.g., one of you being married).</p>



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.).



(a)	None.
(b)	As with traditional marriages, civil unions (PACS) allow couples to file joint tax returns, exempt spouses from inheritance taxes, permit partners to share insurance policies, ease access to residency permits for foreigners, and make partners responsible for each other's debts. Furthermore, like marriage, PACS'ed couples are entitled to take their vacations at the same time if they work for the same company, and civil servants have priority in job transfers to relocate with their partner. Entering into a civil union (PACS) requires little more than a single appearance before a judicial official, and ending one is even easier (registered letter).
(c)	A PACS does not create an obligation of fidelity, and no maintenance obligations persist after dissolution. A PACS does not provide the right to joint adoption, whereas partners in a same-sex marriage have the right to jointly adopt.



Q

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

A

Marriage	If you are already married, you cannot marry again.
PACS	If you are married or already in a PACS, you cannot enter into a PACS.

Q

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

A

Marriage	Yes.
PACS	Yes.

Q

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

A

Marriage	<p>To be divorced 'by mutual consent' (divorce par consentement mutuel or divorce sur demande conjointe), you must have been married for at least six months. Other types of divorce are 'consent to divorce but not to consequences' (divorce sur demande acceptée), divorce based on fault (divorce pour faute) such as adultery, and divorce based on termination of married life (divorce pour rupture de la vie commune).</p> <p>The grounds for a divorce do not need to be disclosed, provided both parties agree on the repercussions such as the division of property, custody of children, alimony, and maintenance. A divorce is usually granted automatically by a judge, although he may order a delay of three months for reflection. A divorce becomes final one month after judgment or two months if it has gone to appeal. A contested divorce must be decided by a court of law.</p> <p>Note that female divorcees and widows must wait 300 days after their divorce or the death of their spouse before being allowed to remarry (in case of pregnancy).</p>
PACS	A PACS can be dissolved simply if one partner marries someone else or if the contract between the parties is terminated (including unilaterally, by letter from one partner).

■ Sources:

- LOI n° 2013-404 du 17 mai 2013 ouvrant le mariage aux couples de personnes de même sexe
- *Law No. 2013-404 of 17 May 2013 Opening Marriage to Couples of Persons of the Same Sex*
- Loi n° 99-944 du 15 novembre 1999 relative au pacte civil de solidarité
- *Law No. 99-944 of 15 November 1999 relative to the Civil Solidarity Pact*
- Joëlle Godard, "PACS Seven Years On: Is It Moving Towards Marriage?", 21 *Int'l J. of Law, Policy, and the Family* 310-321 (2007).
- Scott Sayare and Maia de la Baume, *In France, Civil Unions Gain Favor Over Marriage*, *The New York Times* (Dec. 15, 2010), http://www.nytimes.com/2010/12/16/world/europe/16france.html?pagewanted=1&_r=3&hp&.
- *France Ready to Change the Civil Pact*, *The Washington Times* (Dec. 11, 2004), <http://www.washingtontimes.com/news/2004/dec/11/20041211-105201-5386r/?page=all#pagebreak>.
- *Marriage & Divorce in France*, *Living and Working in France*, <http://www.justlanded.com/english/France/Articles/Visas-Permits/Marriage-Divorce-in-France>.
- *French Tax Advice: Civil partnerships or PACS in France: how they work*, Blevins Franks Tax Advisory Service, <http://www.frenchentree.com/france-tax-advice/DisplayArticle.asp?ID=40477>.