



Name of Country and Jurisdiction:

## Luxembourg

- 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 Luxembourg, 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 Luxembourg 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	Luxembourg	Civil Code <sup>1</sup>  Book III, Title V (Articles 1387-1581)	No
Partenariat (PACS) (Civil Union)	Luxembourg	Act of 9 July 2004 <sup>2</sup> ; Act of 3 August 2010 <sup>3</sup> (expanded benefits)	Yes
Forthcoming changes	Legislation passed on June 2014 will allow same-sex couples to marry and adopt children, beginning on January 1, 2015. <sup>4</sup>		

1 [http://www.legilux.public.lu/leg/textescoordonnes/codes/code\\_civil/CodeCivil\\_PageAccueil.pdf](http://www.legilux.public.lu/leg/textescoordonnes/codes/code_civil/CodeCivil_PageAccueil.pdf)

2 <http://www.legilux.public.lu/leg/a/archives/2004/0143/a143.pdf>

3 <http://www.legilux.public.lu/leg/a/archives/2010/0134/a134.pdf>

4 <http://www.legilux.public.lu/leg/a/archives/2014/0125/a125.pdf>

**Q**

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage <sup>5</sup>	<ul style="list-style-type: none"> <li>• Future spouses must be at least 18 years (men) and 16 years (women), and one must have an official residence in Luxembourg.</li> <li>• For minors, the consent of at least one parent is required.</li> </ul>
Civil union <sup>6</sup>	<ul style="list-style-type: none"> <li>• Both parties must <i>legally</i> reside in Luxembourg, must be at least 18 years old, and must not otherwise be bound in a marriage or other partnership.</li> <li>• Certain relationships are expressly prohibited (parents/children, brother/sister, niece/uncle, and nephew/aunt).</li> </ul>
Forthcoming changes <sup>7</sup>	Legislation passed in June 2014 (and effective as of January 1, 2015) will make 18 the legal age for marriage. It will also remove requirements for blood tests and a 300-day waiting period that had been imposed on widows or widowers.

**Q**

**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**

(a)	Marriage is not available to same-sex couples.
(b)	<ul style="list-style-type: none"> <li>• Parties may not enter into a civil union if they are bound by marriage.</li> <li>• Marriage terminates a civil union.</li> </ul>
(c)	Not applicable.
Forthcoming changes	Legislation passed in June 2014 will allow same-sex couples to marry and adopt children, beginning on January 1, 2015. <sup>8</sup>

5 <http://www.guichet.public.lu/citoyens/fr/famille/vie-maritale/mariage/preparation-mariage/index.html>

6 <http://www.guichet.public.lu/citoyens/fr/famille/vie-maritale/partenariat-pacs/declaration-partenariat/index.html>; <http://www.justice.public.lu/fr/famille/partenariat/partenariat-declare-luxembourg/index.html>

7 <http://www.legilux.public.lu/leg/a/archives/2014/0125/a125.pdf>

8 <http://www.legilux.public.lu/leg/a/archives/2014/0125/a125.pdf>

Q

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

A

Marriage	You cannot enter into a second marriage before the dissolution of the first.
Civil union	If you are already bound in marriage or a civil union, you may not enter into a civil union.

Q

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

A

Marriage	<ul style="list-style-type: none"> <li>• Luxembourg recognizes foreign-formed marriages, so long as the couple provides proof of the act (valid marriage certificate) and registers their marriage at with the civil registrar.</li> <li>• The law does not expressly prohibit same-sex marriages from being registered in Luxembourg, but Luxembourg may refuse recognition if the marriage is “manifestly incompatible” with the public policy of Luxembourg. It seems at least possible that this provision may be used to deny recognition of same-sex marriages while they are not permitted in Luxembourg (until January 1, 2015).</li> </ul>
Civil union	<ul style="list-style-type: none"> <li>• Partners who register their partnership abroad have the opportunity to petition the attorney general to have their civil union registered in Luxembourg.</li> <li>• Partners must essentially meet the same requirements required for entering a civil union in Luxembourg. For non-EU residents, at least one partner must be resident in Luxembourg.</li> <li>• This does not create a new civil union, but rather just registers the civil union in Luxembourg for purposes of benefits.</li> </ul>

Q

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

A

Marriage	So long as the marriage was registered in Luxembourg, a court can grant a fault divorce or divorce for breach of common life; alternatively the President of the Tribunal may grant a divorce by mutual consent.
Civil union	A partnership may be terminated either by mutual agreement in a joint declaration of the 2 partners; or a unilateral declaration of one of the two partners after notice to the other partner. A civil registrar grants the termination.



## ■ Sources:

- Civil Code, Book III, Title V (requirements for marriage and divorce)
- Civil Code, Book I, Title II (foreign marriages)
- Act of 9 July 2004 (PACS)
- Act of 3 August 2010 (Expansion of benefits for PACS)
- Act of 18 June, 2014 (Same Sex Marriage – effective January 1, 2015)

## Secondary Sources

### Luxembourg Government Web Sites:

#### *Family Law:*

- <http://www.guichet.public.lu/citoyens/fr/famille/vie-maritale/index.html>
- <http://www.justice.public.lu/fr/famille/index.html>

#### *Family Reunification:*

- <http://www.bienvenue.lu/page.php?url=installer/sejour/regroupement>

### Other Web Sites:

- [http://www.huffingtonpost.com/2014/06/19/luxembourg-gay-marriage-\\_\\_n\\_5511360.html](http://www.huffingtonpost.com/2014/06/19/luxembourg-gay-marriage-__n_5511360.html)
- <http://luxembourg.angloinfo.com/information/family/marriage-partnerships/>
- [https://e-justice.europa.eu/content\\_family\\_matters-44-en.do](https://e-justice.europa.eu/content_family_matters-44-en.do)
- <http://luxembourg.usembassy.gov/marriage.html>