



Name of Country and Jurisdiction:

Argentina

- 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 Argentina, 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 Argentina for an authority to grant a divorce/ dissolution?

Q

1. What forms of legally recognized relationships are available?

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| LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE | GEOGRAPHY | LAW | AVAILABLE TO SAME-SEX COUPLE? |
|--|----------------------|--|-------------------------------|
| Marriage, registered | Country of Argentina | Civil Code (<i>Código Civil</i>) § 2, tit. I, chap. IV, art. 172 (Buenos Aires, 2010) (Arg.) (hereinafter "National Marriage Equality Law"). | Yes* |
| Civil union, registered | City of Buenos Aires | Law No. 1004 and related Regulation 1004, Buenos Aires, Dec. 12, 2002 (Arg.) (hereinafter "Buenos Aires Civil Union Law"). | Yes |

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* Marriage will have the same requirements and effects, regardless of whether the spouses are of the same or the opposite sex.

| LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE | GEOGRAPHY | LAW | AVAILABLE TO SAME-SEX COUPLE? |
|--|--|--|-------------------------------|
| Civil union, registered | City of Villa Carlos Paz, Córdoba | Organic Charter of the Municipality of Villa Carlos Paz, art. 55, Córdoba, Nov. 27, 2007 (Arg.). | Yes |
| Civil union, registered | City of Río Cuarto (“Río IV”), Córdoba | Ordinance No. 279/09, Córdoba, May 7, 2009 (Arg.) (hereinafter “Río IV Civil Union Law”). | Yes |

In the Province of Río Negro, civil unions are recognized only for same-sex couples under Law No. 3736, Río Negro, June 9, 2002 (Arg.) (hereinafter “Río Negro Civil Union Law”).

Currently, there is no *de facto* marriage or relationship recognition in Argentina. However, there is a project to modify the Civil Code that would grant individuals living together for a certain period of time certain rights, including the right to continue living in the couple’s home upon separation.

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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, Argentina | In most provinces, at least one party must be resident in the place where the marriage is celebrated. The exceptions include Buenos Aires, Santa Fe, and Tierra del Fuego, where nonresident foreigners may now marry. |
| Civil union, Buenos Aires | The individuals need to have lived together in Buenos Aires for at least two years. |
| Civil union, Río Negro | There is no mention of a geographic requirement in the Río Negro Civil Union Law. |
| Civil union, Villa Carlos Paz | Both parties must reside in the City of Villa Carlos Paz for at least five years prior to requesting a civil-union license. |
| Civil union, Río Cuarto | The parties must cohabit in a “stable and public” relationship in Río Cuarto for one year prior to requesting a civil-union license. |

(ii) Other substantive eligibility criteria:

| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS |
|-------------------------------|---|
| Marriage, Argentina | <ul style="list-style-type: none"> • Except under exceptional circumstances, both parties must be at least 18 years old. • Siblings, ascendants/descendants, and their adoptive counterparts may not marry each other. • Spouses are broadly required to provide for each other and live in the same household unless exceptional circumstances make it necessary for them to live apart temporarily or unless living together places them or their children in physical or psychological danger. |
| Civil union, Buenos Aires | <ul style="list-style-type: none"> • The couple must prove the existence of an “affectionate, public, and stable relationship for a minimum of two years.” • Both parties must be at least 18 years old. • Siblings, ascendants/descendants, and their adoptive counterparts may not enter into civil unions with each other. • Any party who has been married before must present proof of divorce when applying for a civil-union license, whether the marriage and/or divorce took place in Argentina or abroad. |
| Civil union, Río Negro | <ul style="list-style-type: none"> • Both parties must be at least 18 years old. • Siblings, ascendants/descendants, and their adoptive counterparts may not enter into civil unions with each other. |
| Civil union, Villa Carlos Paz | <p>Siblings, ascendants/descendants, and their adoptive counterparts may not enter into civil unions with each other.</p> |
| Civil union, Río Cuarto | <ul style="list-style-type: none"> • Both parties must be at least 18 years old. • Siblings, ascendants/descendants, and their adoptive counterparts may not enter into civil unions with each other. |



3. If both marriage and civil unions exist:

- Identify any significant differences in eligibility; and
- 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).
- 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 | (a) | Please see above. |
| | (b) | A subsequent marriage (between the parties or to a third party) dissolves a civil union. |
| | (c) | Parties to a civil union cannot inherit a deceased party's assets, nor can they share custody of a child as "parents" of the child, whether the child is adopted or the biological child of one of the parties. However, homosexuals can adopt children individually. Upon dissolution of the civil union, there are no spousal-support obligations or sharing of assets. |

NOTE: The Buenos Aires Civil Union Law is the most well-developed civil-union statute in the country. Article 4 states that the rights of the parties in a civil union will be similar to those of spouses, but it empowers the city government to designate what those rights will be. No other civil-union law in the country explicitly states how the relationships differ from marriage. Following the recognition of same-sex marriage in 2010, these civil-union laws, with their more limited set of attendant rights, may be of less importance. The differences between the rights conferred by civil unions and those conferred by marriage are outlined above.

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

| A | FORM OF LEGAL RELATIONSHIP | REQUIREMENTS |
|---|----------------------------|---|
| | Marriage, Argentina | A person who is already married cannot marry again unless the marriage is dissolved. |
| | Civil union, generally | A person who is married or already has a civil union cannot enter into a civil union with the same or a different person. |

Q **5. When a couple comes to Argentina, 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 marriage is recognized if it was duly formed according to the laws of that foreign country. • Exceptions: The nullifying conditions in Article 166 of the National Marriage Equality Law will render a duly formed foreign marriage null in Argentina as well. |
| | Civil union | I have been unable to confirm that Argentina recognizes foreign-formed civil unions. |
| | <i>De facto</i> marriage | Given that <i>de facto</i> marriage is not recognized in Argentina, it is unlikely that foreign-recognized <i>de facto</i> or common-law marriages will be recognized there. |

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

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| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS |
|-------------------------------|--|
| Marriage, Argentina | <p>Separation</p> <ul style="list-style-type: none"> Individuals may seek to be legally separated (“personally separated”), but this does not dissolve the marriage. Causes for legal separation include adultery; attempted murder (and potentially grievous bodily injury) of the spouse or the children (whether they are the children of both spouses or of only one of them); instigation to commit crimes; grave “verbal abuse”; voluntary and malicious abandonment; and alcoholism or substance abuse that leads to conduct making it impossible to cohabit. Spouses may also jointly or independently request to be legally separated after two years of marriage. The effect of a separation is that the two spouses can reside separately, with custody rules applying to the children. Generally, spouses owe contribution to each other to maintain the standard of living they had together. <p>Dissolution</p> <ul style="list-style-type: none"> A “competent judge” may dissolve a marriage for the same reasons that a couple can seek a separation or if, after three years of being married, the spouses assert that they have irreconcilable differences which make it impossible to cohabit. A court may also convert a legal-separation decree into a divorce decree at the request of either party and dissolve the marriage after one year or three, depending on the cause of the separation. A marriage may be annulled if any of the impediments to entering into marriage in the first place exist, such as consanguinity, the fact that one or both of the parties are underage, or the continuing existence of a previous marriage. The court/“competent judge” must be located in the place of the marital residence or the residence of the defendant spouse. |
| Civil union, Buenos Aires | <ul style="list-style-type: none"> Civil unions may be dissolved by mutual agreement, the unilateral choice of one of the parties, a subsequent marriage by one of the parties, or the death of one of the parties. In the case of a unilateral choice by one party, the dissolution will be effective only if announced by the “public officer” in charge of the Public Registry of Civil Unions after the party seeking dissolution has shown that he or she has notified the other party of his or her wish to dissolve the union. But whether it is by mutual or unilateral choice, the dissolution must be noted in the Registry. Unions dissolved by subsequent marriage or death do not need to be so noted. There is no mention of a geographic requirement. |
| Civil union, Río Negro | The law does not specify how civil unions can be dissolved in the Province of Río Negro. |
| Civil union, Villa Carlos Paz | The law does not specify how civil unions can be dissolved in the City of Villa Carlos Paz. |

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Legal Recognition of Same-Sex Relationships

| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS |
|----------------------------|---|
| Civil union, Río Cuarto | <ul style="list-style-type: none"> • Civil unions may be dissolved for a number of reasons. If dissolution is sought on the basis of mutual or unilateral choice, at least one party must request that the “public officer” in charge of the Public Registry of Civil Unions established under the Río IV Civil Union Law dissolve the union. The requesting party must first show that he or she has notified the other party of his or her wish to dissolve the union. • There is no mention of a geographic requirement. |

■ Sources:

Primary:

- Civil Code (*Código Civil*) (Buenos Aires, 2010) (Arg.), available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/105000-109999/109481/texact.htm>.
- Law No. 1004, Buenos Aires, Dec. 12, 2002 (Arg.), available at <http://www.buenosaires.gob.ar/sites/gcaba/files/ley1004.pdf>.
- Law No. 3736, Río Negro, June 9, 2002 (Arg.), available at <http://www.notivida.com.ar/legprovincial/RIO%20NEGRO%20registro%20de%20convivencia%20Ley%203736.html>.
- Organic Charter of the Municipality of Villa Carlos Paz, Córdoba, Nov. 27, 2007 (Arg.), available at http://www.villacarlospez.gov.ar/download__prov/cartaorganicamunicipal.pdf.
- Ordinances No. 279/09, No. 361/09, and No. 344/09, Córdoba, 2009 (Arg.), available at http://www.sigla.org.ar/index.php?option=com_content&view=article&catid=81:legislacion-y-jurisprudencia&id=372:ley-de-union-civil-de-rio-iv&Itemid=101.
- Resolution CABA No. 99/2012, City of Buenos Aires, May 16, 2012 (Arg.), available at http://www.ciudadyderechos.org.ar/derechosbasicos_a.php?id=7&id2=590&id3=4635&idanexo=1003.

Secondary:

- Mariano Vaccaro, *¿Existe una ley de concubinato en Argentina? (Is there a de facto marriage law in Argentina?)*, *Diario Veloz*, Nov. 12, 2013, available at <http://www.diarioveloz.com/notas/108939-existe-una-ley-concubinato-argentina>.
- El Comercio, *Buenos Aires aceptará la unión civil entre extranjeros en tránsito*, May 17, 2012, available at <http://elcomercio.pe/mundo/actualidad/buenos-aires-aceptara-union-civil-entre-extranjeros-transito-noticia-1416126>.
- Federación CREFOR, *¿Conocés la diferencia entre Unión Civil y Matrimonio?* June 22, 2010, available at http://www.crefor.org.ar/index.php?option=com_content&view=article&id=75:iconoces-la-diferencia-entre-union-civil-y-matrimonio&catid=3:informacion&Itemid=3.

