



Name of Country and Jurisdiction:

Ecuador

- 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 Ecuador 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 Ecuador 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	Ecuador	<ul style="list-style-type: none"> • 2008 Constitution, “Marriage is the union between man and woman based on the free consent of the parties and their equal rights, obligations and legal capacity.” (Art. 67) • Civil Code, “Marriage is a solemn contract by which a man and a woman join in order to live together, procreate and support one another.” (Art. 81) 	No

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LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Civil Union, <i>de facto</i>	Ecuador	2008 Constitution , “ <i>The stable and monogamous union between two persons, free of matrimonial bond, who form a de facto couple, for the duration and under the conditions and circumstances that the law provides, will generate the same rights and obligations as held by families built through marriage. Adoption will pertain only to couples of different sexes.</i> ” (Art. 68)	Yes

Although same-sex civil unions are permitted under the 2008 Constitution, the Ecuadorian Civil Code under the chapter on “*de facto unions*” explicitly refers to the union between a man and a woman only. According to media reports, in August 2014 President Rafael Correa announced that effective September 15, 2014, same-sex civil unions must be registered by the Civil Registry and that same-sex spouses have a constitutional right to have their civil union listed on their national ID cards.



2. What are the requirements to be able to enter into the above relationships?¹

- (i) If a geographic link is required:



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil Union, <i>de facto</i>	Both parties must be residents of Ecuador for at least 2 years.

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

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil Union, <i>de facto</i>	<ul style="list-style-type: none"> Parties must be free of matrimonial bonds. Relationship must be monogamous. There is a presumption of a <i>de facto</i> union when the parties have treated each other as spouses among their social groups and have been accepted as such by their family and peers.

¹ As stated above, the Civil Code outlining the requisites of the *de facto* union only refers to the union between a man and a woman. These questions have been answered with the assumption that these are the same requisites for same-sex couples.



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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)	<i>De facto</i> civil unions are available to both same-sex and opposite-sex couples. Marriage is only available to opposite-sex couples.
(b)	Adoption is only permitted for opposite-sex couples.
(c)	Not applicable.

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

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Civil union, <i>de facto</i>	If you are already married or have a civil union with the same or a different person, you cannot enter into a civil union.
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5. When a couple comes to Ecuador is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?

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Civil union, <i>de facto</i>	<ul style="list-style-type: none"> • Unclear. The Ecuadorian Civil Code indicates that <i>marriage</i> celebrated in a foreign country, in accordance with the laws of that nation or Ecuadorian laws, shall have the same civil effects in Ecuador as if the marriage had been celebrated in Ecuador. However, there is no mention of the validity of foreign <i>civil unions</i>.
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6. How can each form of relationship be dissolved? What is the residency requirement or other link to Ecuador for an authority to grant a divorce/ dissolution?



<p>Civil union, <i>de facto</i></p>	<ul style="list-style-type: none"> • By mutual consent expressed by public instrument or before a civil judge. • By the will of either cohabitating party expressed in writing before the civil courts, the same to be notified to the other, in person, or through three notifications left at the other party's domicile on different days. • By the marriage of one spouse with a third person; and, • By death of one spouse.
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Sources:

- Constitution of Ecuador (2008)
- Civil Code of Ecuador
- José Miguel Cabrales Luico, *Same-Sex Couples Before Courts in Mexico, Central and South America, in Same-sex couples before national, supranational and international jurisdictions* 93 – 125, 114 (D. Gallo et al. eds., 2014).