



Name of Country and jurisdiction:

## Uruguay

- 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 Uruguay, 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 Uruguay 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	Uruguay	Equal Marriage Law (Law No. 19.075). See also Art. 83, Uruguay Civil Code (the "Civil Code")	Yes
Concubinage, registered	Uruguay	Union Concubinage Law (Law No. 18.246).	Yes



### 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
Civil Marriage	At least one party must have been resident of the city where the marriage will take place.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Concubinage	Both parties must be located in the same city, in order to show an effective coexistence between them.

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

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Marriage must be consented to by both parties, and those under the age of 18 who are being married must have the consent of their parents.</p> <p>A civil certificate of marriage must be issued prior to any religious ceremony of marriage.</p> <p>Publication of marriage announcement.</p> <p>A person cannot be married if: (1) he is male and is under the age of 14 (even with parental consent), she is female and under the age of 12 (even with parental consent); (2) both parties do not consent to the marriage; (3) an undissolved previous marriage exists; (4) there is a “straight line” legitimate or natural relationship between the two; (5) there is a “transverse line” brother relationship; (6) either party murdered, attempted to murder, or was complicit in the murder of a spouse; and (7) there is a lack of religious consecration where the parties stipulated to such consecration.</p>
Concubinage	At least 5 years’ continued community life, and where there exist none of the impediments listed in the last paragraph of the above section.

**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	Marriage shall be celebrated before a judge of the Civil Registry.
Concubinage	Concubinage is a de facto union in which a couple shall live in common constantly and permanently for at least five years, as discussed above. The concubinage declaration shall be judicially made. The concubinage shall be registered in the relevant section of the National Registry of Personal Acts ( <i>Registro Nacional de Actos Personales</i> ).

(b)

Marriage	Marital obligations cease if a spouse remarries or is in a judicially declared concubinage.
Concubinage	Couples in concubinage may not be married.

(c)

Marriage	Uruguay's marriage and civil union laws largely provide for identical rights, privileges and restrictions. However, the Union Concubinage Law (civil unions) is silent regarding taxes and immigration issues.  The Civil Code permits adoption, regardless of sexual orientation or marital status.
Concubinage	Regarding judicially declared concubinage, the parties must agree on a property regime, concerning the incorporation, administration and liquidation of assets contributed to or acquired during the concubinage, under any of the following forms: (i) community property regime; or (ii) separation of property regime.

**Q**

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

**A**

Marriage	Marriage shall be dissolved in order to marry another person.
Concubinage	A concubinage relationship cannot exist if a marriage or concubinage relationship actually exists.

**Q**

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

**A**

Marriage	Article 2395 the Civil Code provides that the law of the State of celebration governs the legal capacity to marry as well as the formal validity of the marriage. Uruguayan courts have recognized at least one foreign marriage where a same-sex couple (a Uruguayan and a Spanish national) married in Spain. See XXVIII Family Court, Montevideo, Decision No. 1940/2012, 5 June 2012.
Concubinage	The Civil Code is silent as to what law governs the capacity and recognition of foreign civil unions as is the case of the recognized concubinage. Civil Code Article 2404 does state that foreign laws that are contrary to the essential principles of international public order to which Uruguay assents are not applicable. Given that Uruguay's Family Court decision in 2012 recognized a foreign same-sex marriage (before Uruguay legalized same-sex marriages) by relying on its Civil Code Article 2395 mentioned above as well as reference to the Inter-American Convention on General Rules of Private International Law and the American Convention of Human Rights, it seems likely that Uruguay would recognize foreign civil unions that are not contrary to international or domestic law.



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



Marriage	A court can <b>dissolve</b> a marriage if: (1) one spouse dies, or (2) divorce is pronounced, (a) by mutual consent of the spouses, or (b) by any of the following reasons: (i) there is adultery by one spouse, (ii) one spouse has been convicted of attempting to take the other's life, (iii) there is abuse or serious injury from one spouse to the other, (iv) one spouse's proposal to prostitute the other, (v) a spouse prostitutes, attempts to, or colludes to prostitute their children, (vi) the spouses quarrel and communal life is insupportable, (vii) one spouse is sentenced to prison for more than 10 years, (viii) a spouse voluntarily abandoned the other if that abandonment has lasted more than three years, (ix) there was <i>de facto</i> separation (for whatever reason) uninterrupted and voluntary for at least three years, (x) either spouse is declared permanently and irreversibly mentally ill, or (xi) a spouse changes gender identity.
Concubinage	The concubinage is dissolved: (1) by court order issued at the request of either cohabitant, without explanation, (2) by the death of one of the cohabitants, or (3) by declaration of absence. If dissolution occurs by court order, the order shall address communal property from the union, questions of ownership/custody/alimony/visitation of children born into the union, and who will retain the family home.

**Sources:**

- Uruguay Civil Code, Spanish available: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=177350](http://www.wipo.int/wipolex/en/text.jsp?file_id=177350)
- Uruguay Children's Code, Spanish available: [http://www.law.yale.edu/rcw/rcw/jurisdictions/ams/uruguay/Uruguay\\_Codigo\\_Ninez.pdf](http://www.law.yale.edu/rcw/rcw/jurisdictions/ams/uruguay/Uruguay_Codigo_Ninez.pdf)

**Or**

- [http://www.gurisesunidos.org.uy/index.php?option=com\\_content&view=category&id=12&layout=blog&Itemid=11&lang=es](http://www.gurisesunidos.org.uy/index.php?option=com_content&view=category&id=12&layout=blog&Itemid=11&lang=es)
- Uruguay Law No. 18.246 (legalizing same-sex civil unions) Spanish available: [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/URY/INT\\_CCPR\\_ADR\\_URY\\_14913\\_S.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/URY/INT_CCPR_ADR_URY_14913_S.pdf)
- Uruguay Law No. 19.075 (legalizing same-sex marriage) Spanish available: <http://www.parlamento.gub.uy/leyes/ AccesoTextoLey.asp?Ley=19075&Anchor=>