



# REGISTERED PARTNERSHIP

## GUIDE FOR GAY AND LESBIAN COUPLES

## Introduction

From July 1, 2009 same-sex couples also have the opportunity to legalize their relationships. The name of the new institution is **registered partnership**, which – with a few exceptions – grants same-sex couples all the rights and obligations that come with marriage. On the other hand, cohabitation between same-sex couples has been recognized since 1996. A third option, the registration of cohabitation by public notaries was introduced on January 1, 2010. This option is available for both same-sex and different-sex couples.

This guide aims to explain the main provisions of this legislation in an understandable format, so that gay and lesbian couples can make informed decisions about the legal form of their partnership. The guide focuses on registered partnership, but to show the differences between them, it also considers other forms of partnership, such as marriage, cohabitation and registered cohabitation.

### What is registered partnership?

Registered partnerships (*bejegyzett élettársi kapcsolat*) were introduced by the Act XXIX of 2009 on Registered Partnership and Related Legislation and on the Amendment of Other Statutes to Facilitate the Proof of Cohabitation, which entered into force on July 1, 2009. The aim of this new institution is to create a family law institution similar to marriage for same-sex couples.

The introduction of the new institution was necessary because current Hungarian legislation makes **marriage available only to different-sex couples**. The legislature recognized that this means that same-sex couples are not entitled to the protection and benefits that come with marriage, a

situation which is discriminatory against same-sex couples. However, there has not been enough political will to open up marriage for same-sex couples; moreover, several decisions of the Constitutional Court have declared that opening marriage to same-sex couples would be unconstitutional. The Constitutional Court drew this conclusion from the special protection of marriage and family enshrined in the Constitution. It is important to note, however, that unlike many countries in which the Constitution explicitly prohibits same-sex marriage, the Hungarian Constitution does not contain such a provision. The ban only follows from the interpretation of the protection of marriage clause put forward by the Constitutional Court.

Even if marriage has not been opened to same-sex couples, registered partnership is in fact an **institution very similar to marriage**. The basic provision of the legislation is that all rules that apply to marriage apply to registered relationships as well, unless the law specifically says otherwise. Thus, the validity of a registered partnership, its establishment and dissolution is the same as that of marriage; the same rules govern the property and inheritance relations of registered partners, and registered partners are entitled to all the tax, social, labor and immigration benefits that are granted to spouses.

Registered partnership differs significantly from **cohabitation** (*élettársi kapcsolat*), which is currently governed by the Civil Code. The main difference is that a registered partnership is created by a joint declaration in front of the registrar and remains in place until the death of a partner or its official dissolution. In contrast, cohabitation does not have to be officially

reported or registered; it is automatically created when the partners move in together and ceases to exist if they separate. Both same-sex and different-sex couples can enter into cohabitation. A person can enter into only one cohabitation at the same time, but dissolution of a previous marriage or registered partnership is not a prerequisite. So, if someone lives with a partner, but s/he did not get a divorce from his/her former partner, s/he is still considered as cohabiting with his/her new partner. Different rules apply to cohabitation than to marriage/registered partnership in the field of property relations, and cohabiting partners are not statutory heirs. Whether cohabiting and married/registered partners are treated the same way or differently varies according to which other specific laws are at issue. The Hungarian Parliament has adopted a new Civil Code in November 2009, which will significantly expand the rights of cohabiting couples. The new Civil Code is expected to come into effect on January 1, 2011 although its future is uncertain because of the parliamentary elections in Spring 2010.

The third option, **registered cohabitation** (*nyilvántartott élettársi kapcsolat*), is closer to cohabitation than to registered partnership. The registration takes place at public notaries, but the parties remain cohabiting couples: the registration does not create any new rights or obligations,

but only helps to prove the existence of a partnership. For example, if you wish to apply for bank loan or survivors' pension, you will not be asked to provide witnesses, it will be enough to show the certificate of registration. Another important difference is that registered partnership is only available for same-sex couples, while both same-sex and different-sex couples can register their cohabitation. The removal of the registration is carried out upon the request of either of the partners; there is no need to go through a divorce procedure by the court or public notaries.

## Establishing a registered partnership

In principle, the same rules apply to the establishment and validity of registered partnership as to that of marriage, with some minor differences.

### Validity

Registered partnership can be established between:

- two persons of the same-sex;
- who are over 18 years old;
- are not legally incompetent;
- are not close relatives; and
- neither of whom has an existing marriage or registered partnership.

### Notification of intention

The first step is to **notify the registrar** about the intention to establish a registered

Forms of partnership available for same-sex couples:

registered partnership

registered cohabitation

cohabitation

partnership. This has to be the registrar in the town where the partners want to hold the ceremony, and cannot be changed later, so the location has to be well thought out in advance. Establishing a registered partnership is not possible in every registry office, only in so-called “**district centers**”; in settlements where there is a document office (*okmányiroda*). The parties have to declare that according to their best knowledge there are no legal impediments to establishing a registered partnership, and the documents that prove this have to be presented.

The following documents have to be presented to the registrar:

- birth certificate;
- identity card and residence card;
- if one/both of the parties were married/registered partner before, a copy of the court or public notary order dissolving the marriage/registered partnership;
- name, address and identity card number of the witnesses.

The registrar prepares minutes of the meeting, and sets the date of the ceremony, taking into account the wish of the partners, but for no later than six months after the notification. As opposed to the legislation on marriage, there is no 30-day waiting period, however, other engagements of the registrar have to be taken into consideration, so usually a few days have to pass between the notification and the ceremony itself. If the ceremony is to take place in a popular wedding room or other venue, these have to be contacted in advance, as most likely there will be a waiting list.

### The ceremony

Establishing a registered partnership is **ceremonial and open to the public**.

Ceremonies primarily take place at official wedding rooms; however, upon the request of the partners, the notary of the local government can authorize the ceremony to take place at other locations such as parks, restaurants, etc. **Two witnesses** have to participate in the procedure and sign the registry.

After the ceremony, the registrar will issue a **certificate of registered partnership**, which the parties receive immediately. The establishment of registered partnership itself is free of charge, but local governments usually charge money for providing the wedding room and other services (the exact amount depends on what is included).

It is important to note that the only part of the ceremony that is prescribed by legislation is the registrar asking the question, the parties responding with “I do” and signing the registry. All other elements of the ceremony (exchange of rings, kissing, making vows, speech by the registrar, etc.) are optional.

### Church weddings

In Hungary marriage is a civil institution which is completely independent of church marriage. Only civil marriage has legal

“Do you *<name of the partner>* declare that you establish a registered partnership with *<other partner>* present here?”

- the question asked by the registrar



consequences, therefore parties who want to have a church wedding also have to appear in front of a registrar. It is up to the church to decide on the conditions of marriage it celebrates. The same rules also apply to registered partnership: that is, it is the **internal regulations of the church** that decide whether same-sex couples are able to marry, or whether some other form of blessing is given to them. In Hungary, at the moment, no mainstream churches offer such blessings, but there are smaller churches and some progressive clergy within established churches that do conduct such ceremonies.

## Legal consequences of registered partnership

### Property relations

The most important property consequence of registered partnership is that, like marriage, registering a partnership creates a **community of property** between the

partners. This means that all property acquired jointly or separately after the registration will belong to both of the partners, unless it belongs to one of the partner's personal property. Property that belongs to a partner's **personal property** consists of all property acquired before registering the partnership, gifts, inheritance, and property for personal use. For all other property, it does not matter who is the formal owner of the house, or who appears in the sales contract of the car: the couple holds the property jointly. The most important consequence of this community of property is that upon the death of a partner, half of the property is automatically given to the partner regardless of inheritance, and only the other half of the property is shared among the heirs. Such claims have to be made during the probate hearing. A further important consequence is that if a registered partnership is dissolved and the

parties cannot agree, the court **divides the property among the partners equally**.

Similarly to registered partners, cohabiting couples can also become joint owners of the property acquired during the course of the partnership, however, the partners do not hold equal shares, but own the property **in proportion to the contribution they made** in acquiring it (the one who paid more to buy the home owns more of it, but domestic work for the household has to be taken into consideration as well). If, however, the cohabiting partners later establish a registered partnership, then the property rules of registered partnership also apply retroactively. So if one of the partners buys an apartment from his/her own income during cohabitation, and then the partners enter into registered partnership, the apartment will be jointly owned and equally shared among the partners upon separation.

It is possible to enter into a **property contract** for the duration of registered partnership. In this case a community of property is not necessarily created: the parties can decide which property will belong to their common and their personal property, regardless of the default rules provided by law. Even cohabiting couples can enter into a property contract, and they can create a community of property similar to marriage. For such a contract to be valid, it has to take the form of a public (e.g. notarial) deed or a contract countersigned by a legal representative. In practice this means a contract prepared by a public notary or signed by a lawyer.

Similarly to spouses, registered partners must **support their partners** during the relationship, so if a partner does not have enough financial resources to live on, his/her registered partner has to help him/her

out. Although there is no such provision in the legislation for cohabiting partners, the case law of Hungarian courts treats cohabiting partners in the same way as married couples in this respect.

### Taking the partner's name

One of the important differences between marriage and registered partnership is that registered partners **cannot take each other's name**; there is no registered partnership name analogous to a married name. The same is true for cohabiting couples as well. Nevertheless, the general procedure for changing one's name is open to anyone who wants to change their name, so one can take his/her partner's surname, or the surnames of the partners can be combined.

It is worth noting that, in case of marriage, taking the spouse's surname does not change one's birth name, but a new name (this is the so called married name (*házassági név*)) is created for him/her. Cohabiting or registered partners, on the other hand, can only **change their birth name**. Requests to change one's birth name have to be submitted in person to the registrar at the place of residence, by filling out a form received from the registrar. For Hungarian citizens living abroad, the request has to be submitted to a consulate. The change of the name is authorized by the Minister responsible for registry affairs, who – in principle – can deny such a request; this is, however, not typical. Changing one's name costs 10,000 HUF for the first time and 30,000 Ft for every other time.

### Raising children

Differences between marriage and registered partnership are the most significant in relation to raising children. The law does not make it possible for registered partners to both become legal parents of



a child; registered partners cannot adopt each other's child(ren), nor to adopt a child left by his/her parents. Lesbians living in registered partnership may not participate in artificial insemination, and the mother's registered partner will not be recognized as the parent of the child (there is no presumption of parenthood as in the case for presumption of paternity).

In relation to adoption it is important to note that the law does not exclude the possibility of **individual adoption**, so even someone living in registered partnership or cohabitation can adopt. The difference from joint adoption is that in this case only one of the partners (the adopter) becomes the legal parent of the child. The Family Code, however, provides that preference has to be given to adoption by a married couple, so in practice it is very unlikely that a gay or lesbian person or couple will be able to adopt.

According to the Act on Healthcare, **artificial insemination** is available only for married or different-sex cohabiting couples, infertile single women, or single women who are likely to become infertile soon

due to their age. Lesbian women living in registered partnership or cohabitation, or fertile single women are not allowed to participate. Notwithstanding, many lesbian couples have had children through artificial insemination in past years by denying their partner or taking advantage of more permissive regulation abroad. It is important to note that regardless of the place of treatment or the place of birth, the child will be subject to the rules of the Hungarian family code, so even if foreign law recognizes the partner of the mother as a parent, this will be disregarded by the Hungarian authorities.

Although the legislation does not allow for a child to have two legal parents of the same sex, most regulations do recognize the registered or cohabiting partner of a child's parent as **stepparent**. The relationship between the child and the registered partner of his/her parent is recognized as a close one: a registered partner **must support his/her partner's child**, and is entitled to childcare benefits (*GYED*). There are also some forms of legislation (Labor Code, Civil Code, Criminal Code) which recognize the relationship between the

child and the registered partner of a parent even after the child has grown up and lives in a separate household.

The new Civil Code would allow cohabiting partners to adopt each other's child(ren), but this option would not be available for registered partners. They would have to divorce, adopt and re-register if they want to adopt their partner's child. The future of this legislation, however, is uncertain.

### Health and guardianship

Both registered partners and cohabiting partners are entitled to **receive information** about the health of their partner, and are entitled to **make decisions** on treatment if the decision cannot be made by the patient him/herself. There is no statutory regulation that governs hospital visitation: in most cases hospital visitation is possible regardless of the relationship between the visitor and the patient.

If someone's necessary discretionary ability for conducting their affairs is permanently or recurrently diminished owing to their mental state, unsound mind, or pathological addiction, his/her registered partner can request him/her to be placed

under **guardianship**. In most cases it is the spouse/registered who is designated as the guardian. These rules do not apply to cohabiting partners.

### Renting an apartment

A registered partner can move into an apartment rented by his/her registered partner from the municipality without special permission from the landlord, and upon the request of the partners the lease agreement has to be amended to include the registered partner as **co-tenant**. Cohabiting partners have no such rights. If the apartment is rented from a private owner, spouses/registered partners are only entitled to reside in the apartment if both of them appear as co-tenants in the lease agreement.

### Taxation

There is no family **income taxation** in Hungary, income tax is calculated on an individual basis regardless of family status and tax reports have to be submitted individually. Family tax benefits are currently only available to people with three or more dependent children. Such benefits can be shared by spouses, registered partners and cohabiting partners as well.



Similarly to spouses, registered partners are placed in the most preferential category for **inheritance and gift taxation** purposes, and if the value of the property is less than 20 million HUF, the inheritance/gift is free from taxation. These benefits are not available for cohabiting couples: they have to pay the highest tax rates.

### Social benefits

For all the means-tested social benefits the income of spouses, registered partners and cohabiting partners are taken into account jointly. For the purposes of social benefits, **spouses and registered partners are treated in the same way**, and most of these benefits are available to cohabiting partners as well. So, e.g., subsidized housing loans or care allowances are available for all couples regardless of the legal form of partnership.

### Conflict of interest, property declaration

**Conflict of interest rules** (e.g. on who can serve as a judge, who can become a corporate leader, etc.) apply to spouses, registered partners and cohabiting partners equally. The partners of high level government officials are required to submit **property declarations** regardless of whether they are married, registered partnered or cohabiting.

### Data protection

As registered partnership is only available for same-sex couples, family status serves as a proxy for sexual orientation. Data on sexual life, however, is **sensitive personal data**, so there are specific data protection rules that ensure that recording family status in a way that enables conclusion to be drawn about the sexual orientation of the person is limited to the most necessary cases. The legislation prescribes that state authorities and service providers can ask

and record family status only in a form that **treats spouses and registered partners together**, thus it is not obvious whether someone is living with a same- or different-sex person. Of course, if the name of the registered partner has to be provided, this will reveal the sexual orientation of the person.

### Criminal law

The law penalizes **bigamy** regardless of whether it is marriage or registered partnership: so if someone enters into marriage or registered partnership while s/he is still married or registered partnered with another person; or if someone enters into marriage or registered partnership with someone who is married or registered partnered with another person (and the person knows about this), s/he commits a felony and is punishable by up to three years imprisonment.

Both registered and cohabiting partners are treated as **next-of-kin** in criminal law: all partners are allowed to refuse to testify against their partner during criminal proceedings; no partner can be prosecuted for connivance or not reporting a crime committed by his/her partner. All partners are entitled to file a charge on their partner's behalf, and crimes against the partner's property (e.g. theft, vandalism) are only punishable if the victim files a charge.

The definition of **domestic violence** includes violence between spouses, registered partners and cohabiting partners, as well as ex-spouses and ex-registered partners (ex-cohabiting partners, however, are not included), so restraining orders can be filed against any violent partner, regardless of the form of partnership. **Stalking** an ex-spouse or ex-registered partner is an aggravated offense, which is punishable with up to two years' imprisonment.

## Immigration and citizenship

Similarly to spouses, registered partners are treated as **family members** when entering or residing in Hungary, so if someone has the right to enter or reside in Hungary his/her registered partner has that right as well. This means that registered partners are entitled to a family reunification visa, and can reside in Hungary without time limit if their living expenses are guaranteed. The same rules apply for EU citizens, refugees and third country nationals with residency permit. Cohabiting partners are not automatically recognized as family members; however, the cohabiting partner of a Hungarian or EU citizen can be recognized as a family member upon the discretion of the Office of Immigration and Nationality if the couple can prove at least one year of cohabitation.

The same **preferential rules** apply for registered partners as for spouses in the naturalization procedure: if registered with a partner of Hungarian citizenship the registered partner is entitled to Hungarian citizenship after 3 years of living in Hungary, instead of the 8 years in all other cases. This option is not available for cohabiting partners.

## Other entitlements

A number of other laws establish rights and obligations for spouses. For example: the spouse of a diplomat is entitled to a diplomatic passport; the partner of a civil servant or state employee is entitled to unpaid leave if his/her partner is posted abroad; an employee is entitled to paid leave upon the death of his/her spouse; etc. The general rule is that in all these cases, **registered partners are treated in the same way as spouses**, regardless of whether the particular legislation mentions registered partners or not. This

is not true for cohabiting partners: it is the **specific piece of legislation** that decides whether that particular benefit is available for cohabiting partners or not.

## Death of a partner

### Funeral

Unless stated otherwise in the will or funeral contract, spouses, registered partners or cohabiting partners are **responsible for organizing the funeral**, even if the deceased had children. The place and type of funeral can be decided by the person responsible for the funeral, respecting the wishes of the deceased during his/her lifetime.

### Inheritance

The same inheritance rules apply to registered partners as to spouses: a registered partner is the **statutory heir** if the deceased had no children and no last will. If the deceased had child(ren) and did not make a last will, the child(ren) will inherit the property, but the registered partner will enjoy usufruct of the property (s/he is entitled to use or rent the property, and the property cannot be sold without his/her consent). If the deceased made a last will, and named a person other than the registered partner as his/her

“Unless otherwise stated by this law, all rules of marriage shall also apply to registered partnership.”

- excerpt from the  
Act on Registered Partnership

heir, the registered partner is entitled to a **legitimate portion** (half of the assets s/he would have inherited without the will). The registered partner is only entitled to the inheritance if s/he lived together with the deceased at the time of death or if there was a chance for them to get back together. So a registered partner who has been separated for a long time from his/her partner is not the statutory heir, even if they never got divorced. For the inheritance tax, registered partners fall into the **most preferential category**, and do not have to pay tax if the inheritance has a value of less than 20 million HUF.

The new Civil Code would introduce some changes to the system of inheritance: if the deceased had no children, but has surviving parents, the spouse/registered partner will not be the sole heir: s/he will inherit the apartment the couple resided in and half of all the other property; the parents will inherit the other half. If the deceased had children, the spouse/registered partner will inherit a portion equal to the portion inherited by a child and usufruct on the apartment the couple resided in and all its belongings.

A cohabiting partner is not a statutory heir, and not entitled to usufruct or a legitimate portion. A cohabiting partner can only inherit by way of a last will, and even in this case has to pay taxes according to the highest rate. The new Civil Code would make it possible for a cohabiting surviving partner to remain in the apartment even if s/he does not inherit it, provided that the couple has lived together for 10 years.

### Life insurance and private pensions

If the insured person has not named a beneficiary in the insurance contract, the **default beneficiary** is the statutory heir (the registered partner if the deceased

had no children). The same holds true for private pension funds. If, however, the insured person named a beneficiary during or after the conclusion of the contract, the named beneficiary will receive the money regardless of whether the relationship between them (e.g., the registered partnership) still exists or not.

### Tenancy right

A surviving registered partner is entitled to **take over the contract** for an apartment leased by the deceased from the municipality.

### Widow's pension

The registered partner is entitled to a widow's pension under the same rules that apply to spouses, so unlike cohabiting partners they are entitled to pension **regardless of the length of the relationship**. Cohabiting partners are entitled to a widow's pension only after 10 years of cohabitation.

### Damages and compensation

If a person is deceased or injured as a result of a workplace accident, a traffic accident or, for example, medical malpractice, relatives of the deceased may be **eligible for compensation**. The compensation shall cover the direct costs (such as funerals, medical treatment costs), loss of income (profit), and non-pecuniary damage caused by the loss and mourning. While in case of spouses and registered partners the court does not examine the quality of the relationship, in case of cohabitation the strength or length of the relationship can be a factor in determining the legitimacy of claims.

If a registered or cohabiting partner dies as a result of a criminal act, the surviving partner in need is entitled to **state compensation**.

## Ending a registered partnership

### Divorce

In the case of breakdown of a relationship, registered partnership can be dissolved through judicial or notarial route. In case of a court proceeding, the same rules apply as to marriage. The divorce proceedings start with submitting a **divorce claim form**. If the divorce is initiated by only one of the partners, or if both of them want to divorce but cannot agree on all matters related to the divorce, the court procedure will be a so called “factual dissolution”. If the partners file the claim together, and can agree in all the related matters, the procedure will be a so-called “dissolution based on agreement”.

The divorce claim form has to be filed with the court which has jurisdiction according to the last common place of residence of the couple, or the place of residence of the party being divorced. After receiving the claim form, the court holds a hearing in person and can – at any stage of the proceedings – **attempt to mediate** between the parties. Since registered partners cannot have a common child, the court can dissolve the marriage even during the first hearing. If the parties requested the dissolution of the partnership together and

have agreed on issues of alimony, use of the apartment, and the division of the property – excluding the separation of jointly owned immovables – the court approves the agreement, and delivers a verdict dissolving the registered partnership.

If the parties cannot agree (either in the intention to dissolve the registered partnership or in any of the related matters), the court holds subsequent hearings where the parties have to prove that the **relationship is irretrievably broken**, or any property claims they might have. The court’s decision is subject to appeal. Starting divorce proceedings costs 12,000 HUF, however, if there is no agreement, fees for lawyers and experts can be much higher.

### Divorce at notaries

Unlike in the case of marriage, registered partners can choose to dissolve their partnership at public notaries, provided that certain conditions are met. These conditions are that:

- the registered partners are not raising a child together;
- the registered partners agree in all matters (division of property, alimony, use of the apartment);
- neither of the registered partners is



legally incompetent or has limited legal competency.

Divorce at the public notaries is only an option; the parties can choose to dissolve the partnership through the court even in cases where all the above conditions are met. To start the procedure the **agreement has to be prepared in written form**, either in the form of a public deed or countersigned by a lawyer. The written agreement has to be submitted to the public notary with jurisdiction according to the last common place of residence of the partners. The public notary holds a hearing in person within 30 days, and if all the conditions are met issues an order declaring the registered partnership dissolved. The dissolution of registered partnership at the public notaries costs 12,000 HUF.

### Division of property

If the registered partners cannot agree on the division of their assets, the court has the power to decide. If the partners have not concluded a property contract the assets will be **divided between the partners equally**. The division of property does not affect personal property.

The division of property by the court can be requested not only in the case of marriage/registered partnership, but also in the case of cohabitation. In this case the division of property is not part of divorce proceedings, but a separate procedure. In the case of cohabiting partners, the property is not necessarily divided between the partners equally: it follows the **contribution from each partner**, but domestic work for the household also has to be taken into consideration. This means that the principle of “who paid more, gets more” is not the only factor; the court will take into consideration all work carried out during and for the benefit of the partnership.

### Alimony

Similarly to spouses, registered partners are **entitled to maintenance**. Maintenance means that one of the parties has to pay a certain amount of money regularly to his/her ex-partner. Paying maintenance can be based on the agreement between the parties or ordered by the court. The court may order the payment of alimony if one of the partners is in need, has not become undeserving, and paying alimony does not jeopardize the livelihood of the payer. The right to maintenance ceases to exist if the person enters into a new marriage or registered partnerships, or if s/he is no longer in need.

Cohabiting partners are currently not entitled to alimony, but according to the new Civil Code, after 10 years of cohabitation the court can order one of the partners to pay maintenance.

### Use of the apartment

The use of an apartment previously inhabited by the couple will be decided on the basis of what grounds the apartment was used. If the apartment belongs to the **personal property** of one of the partners or is rented by only one of the partners, s/he will be entitled to live in the apartment. In some exceptional cases the court can order the non-owner partner to stay in the apartment owned by the other partner if s/he is given custody of the common child(ren). Since same sex registered partners/cohabiting couples do not have common child(ren), these rules do not apply.

If the apartment is jointly owned by the couple, the court **divides the property between the parties**. Where it is physically not viable to divide the apartment, it is awarded to the parent with custody of a minor child(ren). If there are no children

## Comparison of family law institutions

	marriage	registered partnership	registered cohabitation	cohabitation
<b>Gender</b>	different-sex couples	same-sex couples	different- and same-sex couples	different- and same-sex couples
<b>Minimum age</b>	18, 16 with permission from guardianship office	18	18	none
<b>Establishment</b>	declaration in front of the registrar	declaration in front of the registrar	registering with a public notary	establishment of economic and emotional link
<b>Dissolution</b>	court	court or public notary in case of agreement	upon request by either party	automatically upon separation
<b>Taking the partner's name</b>	yes	no	no	no
<b>Division of property</b>	equally	equally	proportionate to contribution	proportionate to contribution
<b>Alimony</b>	yes	yes	no*	no*
<b>Use of apartment</b>	yes	yes	no*	no*
<b>Inheritance without will</b>	yes	yes	no	no
<b>Use of apartment if not inheriting</b>	usufruct	usufruct	no*	no*
<b>Widower's pension</b>	yes	yes	after 10 years or 1 year and common child	after 10 years or 1 year and common child
<b>Presumption of paternity</b>	yes	no	only for different-sex couples	no
<b>Second parent adoption</b>	yes	no	no**	no**
<b>Joint adoption</b>	yes	no	no	no
<b>Artificial insemination</b>	yes	no	only for different-sex couples	only for different-sex couples
<b>Support of the partner's child</b>	yes	yes	no	no
<b>Refusal of testimony</b>	yes	yes	yes	yes
<b>Conflict of interest</b>	yes	yes	yes	yes
<b>Health rights</b>	yes	yes	yes	yes
<b>Family member status in immigration</b>	yes	yes	after 1 year of cohabitation***	after 1 year of cohabitation***
<b>Other rights and duties</b>		same as spouses	depends on specific legislation	depends on specific legislation

\* The new Civil Code will grant this right after 10 years of cohabitation or 1 year of cohabitation and a common child

\*\* The new Civil Code will grant this right

\*\*\* Only if one of the partners is Hungarian or EU citizen

involved, the party that has caused the other party a serious harm of interest has to leave the apartment. In lack of such conduct the decision has to be made taking all other circumstances (e.g. health, age, wealth etc. of the partners) into consideration.

## Foreign aspects

### Registered partnership with a foreign national

The law also allows the establishment of registered partnership between non-Hungarian citizens if at least one partner is a Hungarian citizen or resides in Hungary permanently. It is not an obstacle if one or both of the partners is citizen of a country that does not recognize registered partnerships.

A foreign citizen has to present the following documents to the registrar:

- passport, and if living in Hungary, identity card or residence permit;
- a birth certificate issued abroad and its authentic Hungarian translation;
- a certificate of residence and its authentic Hungarian translation;
- proof of marital status and its authentic Hungarian translation.

All translations have to be prepared by the National Bureau for Translation. Since the examination of foreign documents is not done by the registrar, but the regional administrative authority, the parties have to wait more after notifying the registrar about their intent to establish a registered partnership. The regional administrative authority has 30 days to examine the documents. Although in principle it is possible that the authority delivers its decision in less than 30 days, this is very infrequent. The parties have to ensure the presence of a translator if needed.

### Recognition of a foreign registered partnership

A partnership registered abroad can only be recognized in Hungary if it was established after the law entered into force on July 1, 2009. If the couple married or entered into registered partnership before this date, they have to re-register. Registered partnerships that were established abroad after July 1, 2009 do not have to be repeated in Hungary, but they have to be registered in an administrative procedure. This so-called domestic registration of a registered partnership has to be initiated at the registrar with jurisdiction according to the place of residence of the Hungarian citizen, or at an embassy.

The request must be accompanied by:

- a completed form (available from the website of the embassy where the couple lives);
- the original certificate of registered partnership with its authentic Hungarian translation;
- copies of identity documents of both parties;
- birth certificate of the Hungarian citizen(s) or copy thereof;
- proof of family status if divorced or widowed.

When registering a registered partnership established abroad, the Hungarian legislation is the relevant one, so even if, e.g., the couple took their partner's name, this will not be registered in Hungary. If a registrar or a consular official learns of the establishment of a registered partnership, s/he will initiate its registration *ex officio*.

### Recognition of registered partnership abroad

Since not all countries recognize same-sex marriages or registered partnerships, and registered partnership means

different things in different countries, having a Hungarian registered partnership recognized in another country is not without problems. In countries where same-sex couples can get married or enter into registered partnership, there should be no problem with the recognition of registered partnership. In countries that do not recognize registered partnership, but do recognize cohabiting same-sex couples, registered same-sex partners will be recognized as cohabiting partners.

The European Union requires all Member States to recognize long-term partners of EU citizens irrespective of their sex for immigration and residence purposes. This, however, only applies to residence permit procedures: in all other respect the partners will be treated as single.

## Frequently Asked Questions

### **The Constitutional Court annulled the law, didn't it?**

The first Act on Registered Partnership was adopted in December 2007; the Constitutional Court did indeed annul that law since it found that registered partnership for different-sex couples is a duplication of marriage. The Constitutional Court, however, also held that the

introduction of an institution similar to marriage for same-sex couples is a constitutional requirement. Accordingly, the Hungarian Parliament adopted a new law in April 2009, the content of which is the same as the previous one, but in which registered partnership is only available to same-sex couples.

### **What is the difference between marriage and registered partnership?**

Registered partnership differs from marriage in that:

- registered partnership is available for same-sex couples;
- both parties have to be at least 18 years of age;
- partners cannot take each other's name;
- no adoption;
- no artificial insemination;
- no presumption of paternity;
- registered partnership can be dissolved by a public notary.

### **What is the difference between registered partnership and cohabitation?**

Registered partnership is established by a joint declaration in front of a registrar, and can be dissolved only by court or public notaries. In contrast, cohabitation

## Recognition of same-sex couples around the world

marriage: Belgium, Canada, Netherlands, Norway, South Africa, Spain, Sweden and some states of the United States

registered partnership: Andorra, Austria, Czech Republic, Denmark, Finland, France, Iceland, Germany, Hungary, Luxembourg, New Zealand, Slovenia, Switzerland, United Kingdom Uruguay, and some states/provinces of Argentina, Australia, Mexico and the United States

cohabitation: Croatia, Israel, Portugal

does not have to be officially reported or registered; it is automatically created when the partners move in together and ceases to exist if they separate. Registered partners are entitled to a range of benefits not available to cohabiting partners.

### **What is the difference between registered partnership and registered cohabitation?**

Registered partnership is closer to marriage: registering a cohabitation at the public notaries does not create any new rights or duties; it only makes proving the existence of such a relationship easier.

### **Is it worth entering into registered partnership?**

There is no easy answer for that; every couple has to make its own decision about whether to take on the additional obligations in return for the broader range of benefits.

### **Who may enter into registered partnership?**

Two persons of the same sex, above the age of 18 years, who are not close relatives, neither of whom have an existing marriage/registered partnership with another person.

### **Where can I establish a registered partnership?**

Registered partnerships can be established by registrars of so-called district centers (settlements where there is a document office), primarily in venues designated by municipalities for such purposes. Upon the request of the partners, the notary of the local government can authorize the ceremony to take place at other locations such as parks, restaurants, etc.

### **What documents must be presented to the registrar?**

During the notification of intention to establish a registered partnership the following documents have to be presented:

- birth certificate;
- identity card and residence card;
- if one/both of the parties were married/registered/partnered before, a copy of the court or public notary order dissolving the marriage/registered partnership;
- name, address and identity card number of the witnesses.

### **How much does the establishment of a registered partnership cost?**

The establishment of registered partnership itself is free of charge, but local governments usually charge money for providing the room and other services. The exact amount depends on what is included.

### **What if the next government withdraws the whole legislation?**

The Constitutional Court declared that the introduction of a family institution similar to marriage for same-sex couples is a constitutional requirement. This decision binds all future government of any political persuasion. This ruling can be overridden only by a constitutional amendment, but even this will not affect the validity of registered partnerships established before.

### **Does this mean gays will be registered by the State?**

Registered partnership is similar to marriage in that it is based on the state keeping records of all such partnerships. Registration is an inherent

part of this process; however, rules governing the access to registry records are very strict: abusing this data is nearly impossible.

### **We are planning on adopting, should we avoid registered partnership?**

There is no difference between registered partnership and cohabitation in this regard: both cohabiting and registered partners are allowed to adopt individually. However, in both cases only the adopting partner will be the legal parent of the child.

### **We are planning on participating in artificial insemination, should we avoid registered partnership?**

Neither registered partners nor cohabiting partners are entitled to participate in assisted reproduction. Notwithstanding, many women deny their cohabiting partner and pretend to be single in order to participate in assisted reproduction. For registered partners this is not an option, as family status is officially recorded in the registry.

### **Raising a child, should we avoid registered partnership?**

In most respects both the registered and cohabiting partner of the child's parent is treated in the same way: as step-parent, and thus the next-of-kin of the child. Registered partnership, however, offers a higher level of protection, since registered partners have the duty to support their partner's child(ren), while on the other hand registered partners are entitled to more benefits, such as child care benefit (*GYED*). The new Civil Code would give the right to cohabiting couples – but not to registered partners – to adopt each other's child(ren) and both become full legal parents, but the future of this legislation is uncertain.

### **Can foreign nationals enter into registered partnership?**

Yes, the only prerequisite is that at least one partner is a Hungarian citizen or resides permanently in Hungary. It is not an obstacle if one or both of the partners is citizen of a country that does not recognize registered partnerships.

### **We got married/registered partnered abroad, what should we do?**

If the marriage/registered partnership was established after July 1, 2009, you have to request the domestic registration of your registered partnership at your local registrar or an embassy. If, however, the marriage/registered partnership was established before July 1, 2009 you have to re-register in Hungary.

### **What can I do if the registrar refuses to officiate our registered partnership, or makes homophobic remarks?**

The registrar has no discretionary power to decide whether to officiate at registered partnerships or not, and has to refrain from creating a hostile environment. If you experience such behavior, file a complaint with the Equal Treatment Authority (see address at the back).

### **What can I do if a restaurant, hotel or other service provider does not let us hold our wedding there?**

The principle of equal treatment applies to all firms and service providers. Therefore, they may not refuse to accommodate a wedding ceremony just because it involves a same-sex couple. If you experience such behavior, file a complaint with the Equal Treatment Authority (see address at the back).



## Practical advice

### Talk things through!

Entering into registered partnership is a serious decision, which affects many areas of life. It is a serious commitment, especially in the field of property relations, thus it is worth talking through all questions related to property and considering the possibility of concluding a property contract.

### Start organizing in time!

Organizing a registered partnership ceremony takes time even in cases where only the couple and the witnesses are present, since the date of the ceremony has to suit all parties (the partners, the witnesses and the registrar). If you want the ceremony to take place in a popular venue, you may have to make reservations several months in advance. A spectacular wedding with a lot of guests takes a long time to organize and costs a lot of money!

### Talk things through with the registrar!

It is of uttermost importance to discuss the details of the ceremony with the registrar beforehand. The only part of the ceremony that is prescribed by legislation

is the registrar asking the question, the parties responding with “I do” and signing the registry. If you would like to exchange rings, make vows, listen to a speech by the registrar or kiss each other as part of the ceremony, you have to inform the registrar about this.

### Get informed before going abroad!

Not all countries recognize same-sex marriages or registered partnerships, and registered partnership means different things in different countries. If you travel abroad, and especially if you want to live abroad, you should make enquiries about the legislation in that country.

### Stand up for your rights!

Registered partnership and the rights that come with it are not a courtesy of the authorities; you have a legal right to them. Do not let yourself be turned down by ignorant or homophobic public officials. If you cannot solve a problem, turn to an LGBT organization or the Equal Treatment Authority!

## Whom should I contact?

Here are the contact details of some organizations that you can turn to if you have a problem or further questions:

### Háttér Support Society for LGBT People

This association operates an information and legal aid hotline that you can call if you want more detailed information or need legal help.

**E-mail:** [hatter@hatter.hu](mailto:hatter@hatter.hu)

**Phone:** (80) 505-605

**Internet:** [www.hatter.hu](http://www.hatter.hu)

### Inter Alia Foundation

A foundation fighting against gender and sexual orientation discrimination; they operate a network bringing together gay and lesbian couples raising children.

**E-mail:** [info@interalia.org.hu](mailto:info@interalia.org.hu)

**Phone:** (70) 236-8455

**Internet:** [www.interalia.org.hu](http://www.interalia.org.hu)

### Hungarian LGBT Alliance

An umbrella organization which brings together Hungarian gay, lesbian, bisexual and transgender organizations and groups.

**E-mail:** [info@lmbtszovetseg.hu](mailto:info@lmbtszovetseg.hu)

**Phone:** (70) 551-2346

**Internet:** [www.lmbtszovetseg.hu](http://www.lmbtszovetseg.hu)

### Equal Treatment Authority

If you are discriminated or harassed because of your sexual orientation, this is the public body with which you can file a complaint.

**E-mail:** [ebh@ebh.gov.hu](mailto:ebh@ebh.gov.hu)

**Phone:** (1) 336-7843

**Internet:** [www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu)

#### REGISTERED PARTNERSHIP GUIDE FOR GAY AND LESBIAN COUPLES

Published by Háttér Support Society for LGBT People and the Hungarian LGBT Alliance. February, 2010

Further copies can be ordered from Háttér Support Society for LGBT People

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