

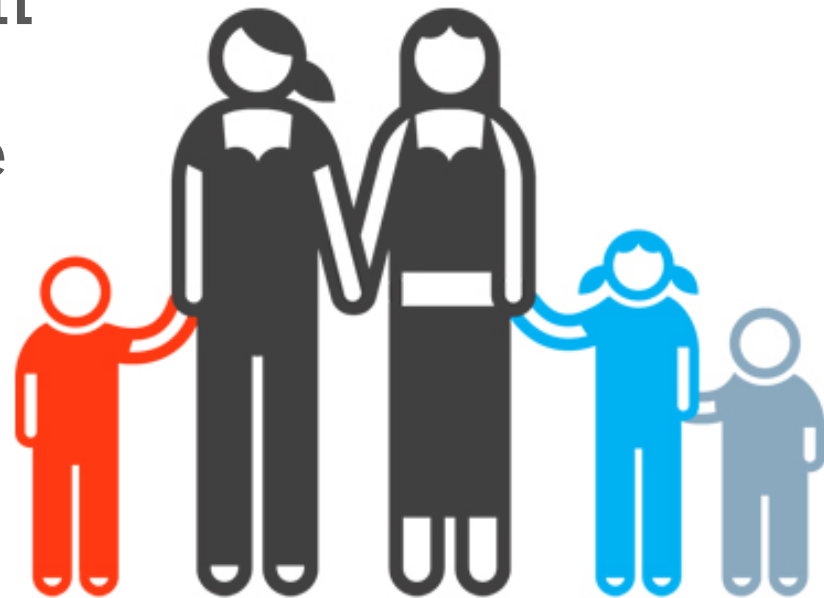
# Legal Recognition of Same Sex Couples

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# + Presentation Outline

- Principles
- Forms of recognition
- Current EU practice



# + Principles



- Why are we interested? Why bother?
  - Anything outside of the law does not exist, does not have rights & responsibilities, does not enjoy protection
  - Human rights argumentation...equality, non-discrimination
- No recognised fundamental human right to marry (UN, CoE, EU...)
- Adoption remains controversial
- No minimum standards, unfettered national discretion
- Strictly state-driven & not religious

# + Forms of recognition

- Divergence of forms of recognition...several terms...

Cohabitation...Registered Partnership...Civil Partnership...Domestic Partnerships...Reciprocal Beneficiary relationships...Civil Union..... Unregistered Partnership...Gay Marriage...Same-sex Union...Marriage Equality...

- No set formulae, legislative flexibility
- So what is legal recognition all about?

## + Forms of recognition

- The **rights & responsibilities** enjoyed by the **individuals** & by the **relationship** by virtue of the relationship itself
- Gradient, scale of recognition of rights & responsibilities...



No recognition...

Basic rights...

...Marriage equality

...Full rights

# + Forms of recognition

Marriage  
Equality



Registered  
Partnerships



Cohabitation



# + Marriage Equality

No distinction between homosexual & heterosexual couples

Property regulation: Community of acquests, paraphernal property, matrimonial home,

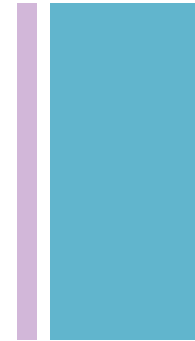
Inheritance: spouse's reserved portion (legittima), matrimonial home & contents

Joint tax computation, same rates but less tax paid

Leave entitlements: bereavement (1), marriage (2), “urgent family”

Life insurances: over spouse's life, right to premia for paraphernal policies

# + Marriage Equality



Prison visiting rights: spouse or Ministerial approval

Hospital visitation rights, medical decisions, organ donation?

Immigration: entry into EU, deportation, freedom of movement, family reunification

Widow(er) pension

Adoption: by the couple, by the 2<sup>nd</sup> spouse?

Regulated end: separation & divorce (maintenance, assets, children)

Wedding benefits: VAT on 'wedding services'





Where?

Belgium

Iceland

Netherlands

Norway

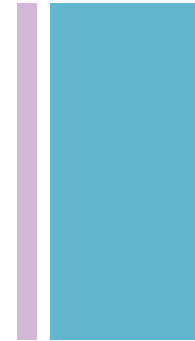
Portugal

Spain

Sweden



# Registered Partnerships



Most varied form of recognition, most varied terminology

Possibly same to marriage, but with a different name

Sometimes also open to heterosexual couples

In some jurisdictions rights do not accrue immediately but over passage of time or fulfillment of conditions e.g. same residential address

Often easier to dissolve than a marriage

Adoption not generally possible



# Where?

Andorra

Austria

Belgium

Czech Republic

Denmark

Finland

France

Germany

Hungary

Ireland

Luxembourg

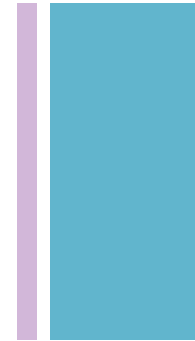
Netherlands

Slovenia

Switzerland

UK

# + Cohabitation



Recognition of joint residence or of a stable relationship?

Much easier to dissolve, yet limited dissolution protection

May be 'registered' or 'unregistered', so formalities vary

Very limited property rights

Without a will, inheritance rights may be limited

Adoption not generally possible

Protection requires increased self-regulation: wills, contracts, loans, splitting up



# Where?

Austria

Croatia

Czech Republic

Denmark

France

Germany

Ireland

Netherlands

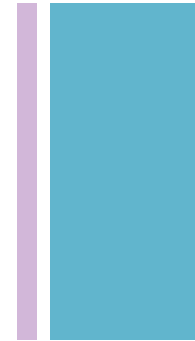
Norway

Portugal

Sweden

UK

# + Nothing



General relationship inexistence

Does not mean no rights, yet largely self-regulated

Joint property is possible...2 separate loans, life insurances

Wills are recognised...yet reserved portions could take priority

No adoption, either for the couple or 2<sup>nd</sup> parent

No protection from dissolution, unless catered for

Partners not considered for immigration purposes



# Where?

Albania

Armenia

Azerbaijan

Belarus

Bosnia & Herz.

Bulgaria

Cyprus

Estonia

Georgia

Greece

Italy

Latvia

Liechtenstein

Vatican City

Lithuania

FYR Macedonia

Malta

Moldova

Monaco

Montenegro

Poland

Romania

Russia

San Marino

Serbia

Slovakia

Turkey

Ukraine

# + Current EU practice

