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Legal Recognition of Same-Sex Couples in the Countries of the World: a Chronological Overview

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SPEAK NOW

AUSTRALIAN PERSPECTIVES ON SAME-SEX MARRIAGE

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WITH A FOREWORD BY

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APPENDIX

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LEGAL RECOGNITION OF SAME-SEX COUPLES IN THE COUNTRIES OF THE WORLD: A CHRONOLOGICAL OVERVIEW

Kees Waaldijk

This overview lists the countries (in and outside Europe) that have taken some major steps towards legally recognising same-sex couples. Four possible milestones have been selected for inclusion in this overview: the year in which the first legal recognition of non-registered same-sex cohabitation (for at least one legal purpose) entered into force; the year in which legislation introducing a form of registered partnership entered into force; the year in which second-parent adoption (and/or joint adoption) by same-sex partners became possible; and the year in which same-sex marriages became possible. An additional chart lists the parts of Canada, USA, Mexico and Australia where same-sex couples can enter into marriage or registered partnership. Please note that different jurisdictions have introduced different forms of registered partnership, some very comprehensive in legal consequences ('quasi-marriage') some far less comprehensive ('semi-marriage'); and they have done so under various names.

The overview is chronological in two senses.

Firstly, the countries are listed in the order in which they have opened up marriage, or failing that, in the order in which they have opened up adoption, or failing that, in the order in which they have introduced a form of registered partnership.

Secondly, the overview shows that there appears to be a more or less standard sequence in which countries go about their legal recognition of same-sex couples. No country in the world has introduced a form of registered partnership for same-sex couples before its law had started to recognise non-registered same-sex cohabitation. In no European country (except in certain regions of Spain), was adoption opened up to same-sex partners before the introduction of a form of registered partnership. Except Portugal and Belgium, no country in the world has opened up marriage to same-sex couples before opening up adoption (but

please note that Belgium opened up adoption three years later). And marriage has only been opened up to same-sex couples in countries that had already started to recognise cohabiting and/or registered same-sex partners.

The information in this overview is largely based on the following two publications, the second of which refers to actual sources and to other relevant literature:

Eddie Bruce-Jones & Lucas Paoli Itaborahy, *State-sponsored Homophobia. A world survey of laws criminalising same-sex sexual acts between consenting adults*, Brussels: ILGA – The International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2011 (online at <http://ilga.org/ilga/en/article/1161>).

Kees Waaldijk, *Legal recognition of homosexual orientation in the countries of the world. A chronological overview with footnotes*, Leiden: Leiden Law School, 2009 (online at <http://hdl.handle.net/1887/14543>).

For an overview of the applicable standards in international and European law, see: Kees Waaldijk, 'Same-Sex Partnership, International Protection', in: R. Wolfrum (ed.), *Max Planck Encyclopedia for Public International Law*, Oxford: Oxford University Press (online at <http://hdl.handle.net/1887/13858>).

The following symbols have been used in the charts:

1993	= 'yes', since this year the relevant legislation (or court ruling) took effect
-	= 'no', there is no legislation (or court ruling) providing for this
[1993]	= such legislation (or court ruling) is only in force in some parts of the country
(1993-2010)	= such legislation did exist in the indicated period
1993?	= information has not been confirmed
?	= available information is contradictory or not available

European countries that legally recognise same-sex couples

	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a <i>registered partnership</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
Netherlands	1979	1998	2001	2001
Belgium	1996	2000	2006	2003
Spain	1994	- [1998]	2005 [2003]	2005
Norway	1991	- (1993-2009)	2001	2009
Sweden	1988	- (1995-2009)	2003	2009
Iceland	1994?	- (1996-2010)	2000	2010
Portugal	2001	-	-	2010
Finland	2001?	2002	2009?	in preparation
Lux'bourg	?	2004	in preparation	in preparation
Denmark	1986	1989	1999	-
Germany	2001	2001	2005	-
England & Wales	1999	2005	2005	-
Scotland	2000	2005	2009	-
Northern Ireland	?	2005	in preparation	-
Slovenia	?	2006	in preparation	-
Greenland	?	1996	-	
France	1993	1999	-	-

Andorra	?	2005	-	-
Czech Republic	?	2006	-	-
Switzerland	2000?	2007 [2001]	-	-
Hungary	1996	2009	-	-
Austria	1998	2010	-	-
Ireland	1995	2011	-	-
Isle of Man	?	2011	-	-
Liechten-stein	?	2011	-	-
Croatia	2003	-	-	-

Together these countries roughly form the northwesterly half of Europe (exceptions still are Gibraltar, the British Channel Islands, and the Danish Faroe Islands).

In the countries of the other half of Europe, the southeasterly part of the continent, there is as yet no legal recognition of same-sex couples at all (or—in a few of these countries—at most a very limited recognition of non-registered same-sex cohabitation). This is true for all countries that used to be part of the Soviet Union (Russia, Estonia, Latvia, Lithuania, Belarus, Ukraine, Moldova, Georgia, Armenia, Azerbaijan), for most countries in and around the Balkans (Romania, Bulgaria, Bosnia & Herzegovina, Serbia, Montenegro, Kosovo, Macedonia, Albania, Greece, Turkey, Cyprus), and for Poland, Slovakia, Italy, Malta, Monaco, San Marino and Vatican City.

Countries outside Europe that legally recognise same-sex couples

	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners? If so, since when?	Can same-sex couples enter into a <i>registered partnership</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
Canada	1990 [1988]	- [2001]	- [1995]	2005 [2003]
South Africa	1996	2006	2002	2006
Argentina	2008 [2001]	- [2003]	2010	2010
USA	2010? [1992]	- [1992]	- [1993]	- [2004]
Mexico	?	- [2007]	- [2010]	- [2010]
Nepal	?	-	?	in preparation
Israel	1994	-	2005	-
Uruguay	2008	2008	2009?	-
Brazil	2000?	-	2010 [2001]	-
Australia	2008 [1994]	- [2004]	- [2002]	-
New Zealand	1992	2005	-	-
Colombia	2001	-	-	-
Ecuador	2009	-	-	-

States, provinces, districts and territories in North America and Australia where same-sex couples can enter into marriage or registered partnership

	Can same-sex couples enter into a <i>registered partnership</i> ? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
Ontario (Canada)	-	2003
British Columbia (Canada)	-	2003
Nova Scotia (Canada)	2001	2004
Québec (Canada)	2002	2004
Manitoba (Canada)	2004	2004
Saskatchewan (Canada)	-	2004
Newfoundland & Labrador (Canada)	-	2004
Yukon Territory (Canada)	-	2004
Massachusetts (USA)	-	2004
Alberta (Canada)	-	2005
Northwest Territories (Canada)	-	2005
New Brunswick (Canada)	-	2005
Prince Edward Island (Canada)	-	2005
Nunavut (Canada)	-	2005
Connecticut (USA)	- (2005-2010)	2008
Vermont (USA)	- (2000-2009)	2009
Iowa (USA)	-	2009
District of Columbia (USA)	1992	2010
Federal District (Mexico)	2007	2010

New Hampshire (USA)	- (2008-2010)	2010
New York (USA)	-	2011
California (USA)	2000	- (2008-2008)
Hawaii (USA)	1997	-
Maine (USA)	2004	-
New Jersey (USA)	2004	-
Tasmania (Australia)	2004	-
Coahuila (Mexico)	2007	-
Washington (USA)	2007	-
Capital Territory (Australia)	2008	-
Victoria (Australia)	2008	-
Oregon (USA)	2008	-
Nevada (USA)	2009	-
Wisconsin (USA)	2009	-
New South Wales (Australia)	2010	-
Illinois (USA)	2011	-