



Cohabiting Couples in Portugal

What are your rights?

Cohabiting couples enjoy many of the same rights as formally married spouses when, regardless of their sex, they live together in conditions similar to those of the married mates for more than two years (according to Law nº 23/2010, of August 30, which amended Law nº 7/2001, of May 11).

While cohabiting couples are not subject to any formal registration *per se*, they may be asked to provide proof of their status. To validate the union in the eyes of the law, the couple should request a declaration from the parish council ("Junta de Freguesia"), stating that, under an honorary agreement, they have been living together for more than two years.

1. Rights to the family homestead

Couples in lawful cohabitation are entitled to the same rights of use, benefit and protection of the family home and its contents as occurs with married couples.

2. Rights at work

Those unmarried partners who live together can benefit from the legal regime applicable to married couples with regard to holidays and absences from work. In the event that both work for the same employer, they are entitled to enjoy their holidays together simultaneously.

3. Rights regarding children

Children born into a cohabiting union have the same rights as children born of a marriage. Cohabiting parents have the same parental duties towards their children as in marriage, guaranteeing the children's safety, health, education and support up to at least 18 years or to emancipation.



Determination of paternity is the result of voluntary acknowledgement on the part of the father or a court declaration (after an investigation of paternity). In case of doubt as to paternity, it is presumed to be in relation to the person with whom the mother lived at the time of conception.

With regard to adoption, cohabiting partners may adopt a child if they have been cohabiting for more than two years. Exceptions include: being under 16 of age; suffering from dementia; already being married; being close relatives; or having been convicted of fraudulent homicide.)

4. IRS Rights

Both married and cohabiting couples have the right to the same personal income tax treatment (“IRS”). Married couples may elect to declare separately or jointly, depending on what they consider to be most advantageous.

Cohabiting couples are entitled to the application of the “Marital Coefficient” in the same manner as their married counterparts.

5. Rights in the case of separation

As far as separation is concerned, there is no common property subject to sharing, but the division of the couple's assets must be decided. The rules of an existing cohabitation contract or, in its absence, the general rules of law shall apply. When there is no pre-existing contract, the two individual are considered owners of the assets in the proportion that each one has contributed to their acquisition.

6. Rights in case of death

In the event of the death of a partner who is the owner of the family home, the survivor may remain in the house for a period of five years as well as enjoy the right to the use of its contents.



The surviving partner is also entitled to any death benefits and a survivor's pension, as well as to any death benefits resulting from a work accident or an occupational disease.

In the case of succession of one of the partner of a cohabiting couple, the survivor is not considered to be a legitimate heir. In order to inherit, the person must be named expressly in the will of the deceased.

**For additional information,
please consult
euroFINESCO leaflet n° 23:
“Marriage or Cohabitation”**

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