



The Rights of Cohabiting Couples under Portuguese Law

Cohabitation is the legal situation of two persons who, regardless of sex, live in conditions similar to those of the married couples for more than two years. (Law n° 23/2010 of 30 August, which amended Law n° 7/2001 of 11 May).

1. Housing Rights

Cohabiting couples are entitled to protection of the family home just as happens with married couples.

2. Rights in the work place

Those who live in cohabitation can benefit from the legal regime applicable to married persons with regard to holidays, absences and licenses and preferably in the placement of Public Administration workers. In the event that both members of the couple work for the same company, they are entitled to enjoy vacations in the same period.

3. Children's rights

Children have the same rights regardless of the type of union that the parents choose. Parents have the same parental duties towards their children, guaranteeing their safety, health, education and livelihoods up to at least 18 years or to emancipation.

As for paternity, it must be the result of voluntary recognition on the part of the father (the so-called adoption) or a court declaration (after a paternity investigation).

With regard to adoption, persons living together of different sex may adopt a child if they have been together for more than four years and are over 25 years old. The conditions of adoption in Portugal are stipulated under article n° 1979 of the Civil Code.



4. Income Tax Rights

Cohabiting couples apply the IRS regime under identical conditions as do taxable married couples. Couples under both situations can choose to report jointly or separately, depending on which proves to be the most beneficial.

5. Rights in case of separation

As far as separation is concerned, there is no common property subject to sharing. Nevertheless, the division of the couple's belongings must be resolved. The rules of the cohabitation contract or, in its absence, the general rules of law shall apply. Without a previous agreement, the two persons are the owners of the property in the proportion that each one has contributed.

6. Rights in event of death

In the event of the death of the member of the union who is the owner of the family home and of its contents, the surviving member may remain in the household for a period of five years as the holder of a real right of housing and a right of use of the contents.

The surviving partner is entitled to a death grant and survivor's pension, as well as to a death benefit resulting from an accident at work or an occupational disease. As for inheritance, the surviving partner is not a legitimate heir. To inherit, the person must appear expressly in a will.