

1 Types of relationship for unmarried people

1.1 Cohabitation

1.1.1 Characteristics

There is no legal definition of what constitutes a cohabitation. Cohabitation (Switzerland: "concubinage") is the permanent cohabitation of an unmarried couple. Those living in a cohabiting relationship, do not benefit from the same social or legal protection, as married couples. The cohabitation can be dissolved informally at any time. It is - at least in its intention - permanent and exclusive to the other partner. Elements of a cohabitation are:

- Residential: The partners live in a shared household, with the intention of establishing their centre-of-life there;
- Sexual community: The partners are in a sexual relationship with each other;
- Economic community: The partners meet the needs of daily life together, allow each other to share their goods and provide each other with services and assistance.

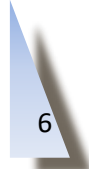
Under certain circumstances, cohabitation can also exist, if one of these elements is missing. For example, if the partners do not live together but have sexual relations with each other and support each other financially and personally in every way, or if they live together but do not have sexual relations with each other. It depends on an overall consideration of all circumstances, whether two partners have a truly marriage-like partnership based on fidelity and support. You can largely protect yourself with a partnership agreement (see templates in the appendix).

1.1.2 Distinction from an engagement

An engagement is the mutual promise of two partners to enter into marriage. It is regulated by law (Art. 4ff Marital law). The engagement becomes legally binding through an informal promise. The dissolution of an engagement may, under certain circumstances, give rise to liability for damages. Damages consist of the costs of preparing the marriage and a matrimonial home (so-called frustrated expenses). Furthermore, gifts made in regards of the marriage, may be revoked if the marriage does not happen, through no fault of the donor.

1.1.3 Cohabitation as a simple partnership

In the absence of relevant legal provisions on cohabitation, it is questionable which rules are applicable in each case. The law of simple partnership may apply if the partners come together to form an economic community with joint accounts (in accordance with the established case law of the Swiss Federal Supreme Court). The contract is almost always concluded tacitly (implied), through conduct of the partners. The partners are also rarely aware that they are entering into a contractual relationship. If a contractual relationship can be assumed, the question of the scope of such a contract. This can range from a mere community of consumption (with the purpose of satisfying common needs within the framework of the common household) to a broader partnership purpose, where there are common projects, such as a common business, a house purchase or construction, shared children, etc. The partners are not aware of this. The law regarding simple partnerships only becomes relevant to a cohabitation relationship in the event of a separation of the partners, when the question arises, as to whether one partner has claims of financial nature against the other.



1.1.4 Entitlement to maintenance in a domestic partnership

In a non-marital cohabitation, neither partner has maintenance claims over the other. If a cohabiting partner has received maintenance from an ex-spouse, maintenance is suspended for the duration of the cohabitation. It does not matter whether the person concerned receives maintenance from the cohabitation in full, in part or not at all. The revival of the obligation to pay maintenance does not occur automatically with the end of the cohabitation, but must be re-asserted in court against the person liable to pay maintenance.

1.2 Couples living separately

Couples living separately are not subject to any legal rules, unless they deliberately want to enter into contractual obligations (employment contract, subletting, loans, etc.). Nevertheless, even couples living separately can form a non-marital partnership under certain circumstances (for example, for professional reasons).

1.3 Registered partnership

A registered partnership is only possible for same-sex couples. It is regulated by law and largely structured like marriage regarding maintenance, property division and dissolution of the partnership (see also: Law on Registered Partnerships).