

Legitimation and Domicile

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Introduction

There have been an increasing number of passport applications where the claim to British Citizenship is through the father, and the parents were not married to each other at the time of the child's birth, although they have married after the birth.

These applications are not straightforward and relate to the provisions in section 47 of British Nationality Act 1981 (BNA 81), which allows illegitimate children to be legitimated by a subsequent marriage of the parents.

This means that legitimisation requires not only that the parents marry [Section 47(1) BNA 81], but also that **the law in the country in which the father is domiciled at the time of the marriage** allows subsequent marriage of the parents to legitimise an illegitimate child [Section 47(2) BNA 81].

Process

Legitimation/domicile cases arise for those:

- who were born before 1 July 2006 (either in the UK or abroad);

And

- whose parents married after the child was born;

And

- who are claiming British nationality through their father.

These applications should be dealt with only by examiners who are trained to determine domicile. Therefore, all applications that meet the above criteria must be referred to Examiner Quality Consultants (EQCs).

Legitimation and domicile for experienced examiners

When dealing with an application for a child born before 1 July 2006 whose claim to British nationality is through his/her father, examiners need to establish whether or not the applicant is born legitimate or illegitimate. The concept of legitimacy and illegitimacy is defined by legislation in the UK and overseas.

Many countries no longer distinguish between legitimate and illegitimate births. Where they do not distinguish, a child will be legitimate even if the parents are not married.

In countries that continue to distinguish between legitimate and illegitimate births, the subsequent marriage of the parents may legitimise an illegitimate birth.

UK law makes provision (section 47 of BNA 81) for a child born outside of a marriage to have a claim to citizenship, if legitimated through the subsequent marriage of his/her parents.

However, the child can only have a claim if the law in the place/country where the father is domiciled at the time of the marriage serves to legitimise the child. For example, if the father is domiciled in the UK at the time of the marriage, this would serve to legitimise the child. If on the other hand, the father's domicile is another country, we need to consider the law of that country.

How to deal with these cases

In UK law, when considering questions of legitimacy, we look at the law of the place where the father was domiciled **at the time of the child's birth**. If that law treats a child as legitimate, then UK law will likewise recognise that status [Hashmi v Hashmi (1972)].

Therefore, if there is no concept of illegitimacy according to the law of the place of the father's domicile **at the time of the child's birth**, the child born outside a marriage will be considered legitimate in UK law irrespective of whether the child's parents subsequently marry. Such a child will have a claim to British Citizenship.

- Example: Child born UK before 1 July 2006

Parents not married

Claim through father

Father's domicile Jamaica

As Jamaica has no concept of illegitimacy, the child has a claim under section 1(1)(b) BNA 81

If on the other hand, the law of the place where the father was domiciled at the time of the child's birth would regard the child as illegitimate, the child will only be legitimated under section 47 of the BNA 1981 if a subsequent marriage of the parents would be deemed to have legitimated the child under the law of the place in which the child's father was domiciled **at the time of the marriage**.

- Example: Child born UK before 1 July 2006

Parents married after the child's birth

Claim through father

Father's domicile Malaysia

Malaysia does distinguish between legitimate and illegitimate births but the Malaysian Legitimacy Act 1961 allows an illegitimate child to be legitimated by a subsequent marriage of the parents. Therefore child will have a claim under section 1(1)(b) read With section 47 BNA 81.

In considering an application on the basis of legitimation (section 47 BNA 81), legal advice suggests looking at the legitimacy law of the father's country of domicile **at the time of the marriage**.

The domicile of the father may be presumed to be the country of his birth unless satisfactory evidence to the contrary is produced. In particular, if the father holds a passport issued by the authorities of the country in which he was born it can be safely assumed that the father has retained a domicile of origin, regardless of how long he has lived in the UK, and the relevant laws will be those of that country.

In complex cases where the father's country of domicile is less obvious (e.g. father born one country, holds a passport of a different nationality) the father should be sent a domicile questionnaire to complete. HQ policy will be happy to advise on how the completed questionnaire should be interpreted until more in depth guidance can be produced.

Examiners can consult the attached table to establish the legitimacy laws in other parts of the world. If the country concerned is not included on the attached table, examiners must complete a policy proforma and refer to Head Quarters (HQ) Policy via their Policy Network Group (PNG) officers.

Note that section 47(1) only refers to legitimisation through subsequent parental marriage. Where a child, born illegitimate of a British Citizen / UK resident father, has been legitimated (after the child's birth) by operation of a law rather than by the subsequent marriage of his parents, the child may qualify for registration under section 3(1) of the BNA 81.

For example, a child born illegitimate in Jamaica before the 1 November 1976 would not have a claim because it was the advent of the Jamaican Status of

Children Act 1976 that legitimated the child, not a marriage. Even if the parents were to subsequently marry after the law came into force, the child will not have a claim. However, a child born illegitimate after 1 November 1976 would have a claim because he/she was born legitimate under Jamaican law, which UK law will recognise.

Note also that for children born on or after 1 July 2006, section 47 of the BNA no longer applies and a marriage that takes place after the birth has no impact on the child's nationality – see Children for more details on this.

Interpreting a domicile questionnaire

The crucial test to apply when considering whether a person has lost their domicile of origin and acquired a domicile of choice is to look at the intention of the person – whether they intend to establish a family and/or remain at their domicile of choice indefinitely.

The length of residence is not in itself a conclusive proof of whether a domicile of choice has been acquired, because a person who has only just arrived in a particular country could easily satisfy the test if it were clear that they intend to remain in that country permanently. Conversely, a person may have lived in a particular country for a considerable time (for example, for employment purposes) but have no intention of remaining there permanently.

Although declarations of intention to remain permanently or retire in place are important when considering the domicile of a person, this should be viewed in the context of the person's actions to see whether the two are consistent - that is if the person's intention matches that of their deeds.

That's why the first thing to consider when interpreting a domicile questionnaire is whether or not the person has maintained some form of contacts with their domicile of origin. If they have retained even one form contact, for example travel to their domicile of origin regularly or owns a land/property there, then it is safe to assume that the person has retained his domicile of origin. It is also important to note that it is difficult for people to lose their domicile of origin and domicile is much more than residence.

For example, where a person holds a British passport, owns a house and has bank account in the UK but travels regularly to see family members in their country (domicile) of origin and own land or properties there, that person would be regarded as having retained their domicile of origin. Although this person has established deep roots in the UK, they have at the same maintained firm contacts with their country of origin.

Domicile of children

Before 1st January 1974, a legitimate child domicile changed automatically with that of the father and illegitimate child changed automatically with that of the mother. Since the Domicile and Matrimonial Proceeding Act came into force on 1st January 1974, the following rule applies to children:

- Legitimate child – Domicile change automatically with that of the father until the child is 16 years old (or marries under 16) except:
 - a. the child’s parents are alive but living apart and either:
 - i. the child’s home is with the mother, and not with the father; or
 - ii. the child had at any time domicile by virtue of (i) above and has not since had a home with the father.
 - b. The mother is dead and at her death the child had a domicile by virtue of (a) above and has not since had a home with the father.

If either (a) or (b) above applies, the domicile of the child will that of the mother (if dead, her place of domicile at death).

- Illegitimate child – Domicile changes automatically with that of the mother until the child is 16 year old (or marries under 16).

Domicile is relevant in assessing applications from children of polygamous marriages. Polygamous marriages contracted abroad whilst either party was domiciled in the UK or in any other country whose laws do not permit polygamous marriage are invalid. Therefore, children born to such marriages would have no claim to British Citizenship.

Where both parties are domiciled in a country who laws allow polygamous marriages, the marriage will be valid and any children born to that marriage may have a claim. For example, a child born in Pakistan to the second wife of a father who is a British Citizen (through naturalisation) would have claim provided the father was domicile in Pakistan (or any other country whose laws permit polygamous marriages) at the time child’s birth.

Annex A - Legitimation laws in other parts of the world

AFRICA

Country of domicile	Is there any distinction between legitimate and illegitimate birth?	Would a child be legitimated by subsequent marriage of the parents?	Relevant legislation in that country	Marriage Law
Algeria	Yes, a distinction is made between legitimate and illegitimate births. The	In order to protect children on the basis of Islamic principles, they are legitimated by the subsequent		

	Algerian Family Code has been amended and is now largely based in Islamic principles.	marriage of their parents. The father should declare that the child is his and give him his name.		
Cameroon	Yes, a distinction is made between legitimate and illegitimate births.	The subsequent marriage of the parents cannot confer legitimacy on a child born outside of a marriage.	Article 41 of the Civil Status Registration Ordinance (CSRO) states that only a court jurisdiction can able the recognition of a child outside of marriage. However, article 44 of the CSRO permits the recognition at birth of a child born out of wedlock by a declaration before a CSRO officer. For this to happen, the following criteria must be filled: - The father's	

declaration must be heard by the CSRO officer with the consent of the mother and in the presence of two witnesses.

- The CSRO officer identifies the parents of the child and enters the declaration onto the register.

- The declaration is signed by the father, mother, the witnesses present and CSRO officer before the birth certificate is issued.

- Where one of the parents is a minor, the consent of the father, mother or guardian will be

			<p>required. The consent will either be given verbally or in writing attached to the register.</p> <p>- The above will not apply if there are several persons claiming to be the father of the child.</p>	
Congo Democratic Republic	No distinction is made between legitimate and illegitimate births	Legitimate whether the parents are married or not	The Family Code	
Egypt	Yes, there is distinction between legitimate and illegitimate births.	Yes, the birth can be legitimated by the subsequent marriage of the parents and a court order. In principle, such court orders are reasonably straightforward to obtain.		
Eritrea	No distinction is made between legitimate and illegitimate births	All children are legitimate and equal regardless of whether or not the parents are married.		
Ethiopia	Yes, a distinction is made	if the father acknowledges paternity through		

	between those born in and outside marriage	marriage, then the child is considered to be legitimate		
Gambia	No distinction, all children are born legitimate	A child born in the Gambia is legitimate whether the parents are married or not. English law will recognise this irrespective of whether or not the child's parents subsequently marry	Children Act	
Ghana	No distinction, all children are born legitimate	Child is legitimate whether the parents are married or not – this will therefore make the child legitimate in the eyes of UK law.	Marriage ordinance and Article 28(1)(b) of the 1992 Constitution of the Republic of Ghana - a child born out of wedlock is no longer illegitimate under the law.	Proxy/customary marriages are recognised in Ghana and they have to be registered with the register office and a marriage certificate produced. Polygamy is also recognised but should he decide to marry under the ordinance law then all the marriages under customary law would have to be dissolved.
Ivory Coast	Yes, a distinction is made between those born in and out of wedlock	Yes, the subsequent marriage of the parents would serve to legitimise the child	Article 41 (new) of the law of 14 Dec 99 modifying law 64-374 of 7 Oct 64 on Civil Status.	

Kenya	Yes, a distinction is made between those born in and out of wedlock	Yes, the subsequent marriage of the parents would serve to legitimise the child	CAP 145 of the laws of Kenya	
Malawi	<p>No distinction between legitimate and illegitimate births.</p> <p>Section 20 of the constitution of Malawi prohibits discrimination on the grounds of birth. Section 23 of the Constitution states that “all children regardless of the circumstances of their birth are entitled to equal treatment before the law”.</p> <p>Illegitimacy therefore is of no consequence in Malawi.</p> <p>However, the law recognises the concept of illegitimacy in terms of will, inheritance</p>	Legitimate whether married or not.	<p>The constitution</p> <p>The Affiliation Act</p> <p>The Wills and Inheritance Act</p>	

	and maintenance.			
Mauritius	Yes, a distinction is made between legitimate and illegitimate births.	Yes, a subsequent of the parents would serve to legitimise an illegitimate child. That is if parents are unmarried, the child will be considered illegitimate until the parents get married. It is only through marriage that the birth is legitimated.		
Nigeria	Yes, a distinction is made between legitimate and illegitimate births	Yes, a subsequent marriage by the parents of an illegitimate child will render that child legitimate, provided the father was or is at the date of the marriage domicile in Nigeria. Such marriage must be conducted under the provisions of the Marriage Act and not customary marriage. Where the father was not domiciled in Nigeria at the time of the subsequent marriage, the child may still be legitimised if the law of the	Legitimacy Act 1929 & the constitution of the Federal Republic of Nigeria (1999)	

		<p>country in which the father was domiciled recognises the concept of subsequent legitimation by statutory marriage.</p> <p>In respect of customary and Muslim marriages, a child born out of wedlock may or may not be legitimised by subsequent actions, such as: acknowledgment or acceptance by the father, subsequent marriage and so on. The exact method of legitimation will depend on the custom prevailing in the area in question</p>		
Sierra Leone	Yes, a distinction is made between legitimate and illegitimate births.	Yes, the child becomes legitimate when the parents married.	Bastardy Act	
Somalia	Yes, there is a distinction between children born in marriage and those born outside a marriage	Yes, if both parties accept the child as their child, then the law will recognise that child as their legitimate child. This acceptance should be in the		

		form of either a marriage or a court ruling.		
South Africa	Yes, a distinction is made between those born inside and outside a marriage.	Yes, a child born out of wedlock would be legitimised by the subsequent marriage of the parents.		
Sudan	Yes, a distinction is made between legitimate and illegitimate births	Marriage will serve to legitimise the birth unless a misconduct by the mother is witnessed and proven	Personal Matters Act 1991	
Tanzania	No distinction is made between legitimate and illegitimate births for nationality purposes and this has been the case since 1 February 1998	Legitimate whether married or not if the child is born on/after 1 February 1998. For a child born before this date, subsequent marriage of the parent would serve to his/her birth.		
Uganda	No distinction is made between the two	Legitimate irrespective of whether or not the parents are married	Children Act	
Zambia	Yes, there is a distinction between legitimate and illegitimate births.	Yes, section 3 of the Legitimacy Act provides for an illegitimate child to be legitimated by a subsequent marriage of his/her parents provided the father is/was domiciled in	The Legitimacy Act of Zambia	

		Zambia at the time of the marriage.		
Zimbabwe	Yes, there is a distinction between those born inside and outside a marriage	Yes, under the Common Law of Zimbabwe the subsequent marriage of the parents of a child born to them before their marriage legitimises the child retrospectively	The Common Law in Zimbabwe	

ASIA, MIDDLE EAST & THE PACIFIC REGION

Country of domicile	Is there any distinction between legitimate and illegitimate birth?	Would a child be legitimated by subsequent marriage of the parents?	Relevant legislation in that country	Marriage Law
Afghanistan	Yes, a distinction is made between legitimate and illegitimate birth	Yes, child will be legitimised by the subsequent marriage of the parents		
Australia	No distinction; children born of Australian-born parents whether in Australia or abroad are deemed to be Australian citizen irrespective of whether their parents were	Legitimate whether married or not	Marriage Act	

	<p>married at the time of their birth.</p> <p>This has been the case since 1984 and as the law is a federal law, it covers all states and territories in Australia.</p>			
Bangladesh	Yes, a distinction is made between legitimate and illegitimate births	Yes, provided the father acknowledges the child – marriage being a form of acknowledgement.		
China	Yes, a distinction is made between legitimate and illegitimate births	An illegitimate child cannot be legitimated by a subsequent marriage of his/her parents		
Hong Kong	Yes, a distinction is made between legitimate and illegitimate births.	Although Hong Kong is now part of China, its laws, including legitimation laws, are different from that of mainland China. According to the Legitimacy Ordinance (as amended) of Hong Kong, an illegitimate child becomes legitimated by the subsequent marriage of the parents if the father at the date of marriage is		

		domiciled in Hong Kong or has a substantial connection with Hong Kong.		
India	Yes, there is a distinction between legitimate and illegitimate births.	Yes, as long as the birth certificate has both parents' name on it.		
Indonesia	Yes, there is distinction between legitimate and illegitimate births.	<p>Yes, subsequent marriage would legitimise and illegitimate child.</p> <p>Under Indonesian Law, father's name is not stated on the child's birth certificate if the child is born out of wedlock. When the parents subsequently marry, they will have to return to the issuing authorities to have the birth certificate amended for the Legitimation purpose. However, before they can have the birth certificate amended, there is process that they have to go through. However this process is still not standard throughout the country. Some Civil Registry Offices are happy to amend the birth certificate as long as the parents can</p>		

		produce their marriage certificate while others require the parents to go through the court for the process before the birth certificate can be amended.		
Iraq	Yes, there is a distinction between legitimate and illegitimate births.	Yes, subsequent marriage will legitimise an illegitimate child provided the parents register their marriage with an Iraqi court.		
Israel	Yes, there is a distinction between legitimate and illegitimate births.	<p>Although they make a distinction, a child born out of wedlock is not necessarily illegitimate. Rabbinical law recognises two types of child:</p> <p>The 'lawful child' which includes a child born in wedlock and a child born to a couple neither of whom have been married.</p> <p>A 'bastard child' is one born as a result of an illegal relationship such as an incestuous union or a relationship between man and a married woman. A married woman being a woman married according to Jewish law and</p>		

		<p>not otherwise.</p> <p>A child born to a married man and unmarried woman was not forbidden by the Torah and is called 'a child of the unmarried' not a 'bastard'. Such a child is regarded as a legitimate child.</p>		
Lebanon	Yes, there is a distinction between legitimate and illegitimate births.	Yes but depending on the religion of the couple. If a Christian, then a subsequent marriage of the parents can legitimise an illegitimate birth. Muslims on the other hand cannot.		
Malaysia	Yes, a distinction is made between legitimate and illegitimate births	Yes, A subsequent marriage by the parents can legitimise the child provided the father is domiciled in Malaysia at the time of marriage.	Legitimacy Act 1961	
New Zealand	No distinction between legitimate and illegitimate births and this has been the case since 1 January 1970	Legitimate whether or not the parents are married	Children Act 1969	
Pakistan	Yes, the law in Pakistan makes a	No, there is no such thing as legitimisation under	Mohammadan law	

	distinction between legitimate and illegitimate birth	Mohammadan law. This means that a child born illegitimate in Pakistan will not be legitimated by a subsequent marriage of his/her parents.		
Philippines	Yes, the Legitimacy Act in the Philippines makes a distinction between legitimate and illegitimate births. Article 164 states that children conceived or born during the marriage of the parents are legitimate and those conceived and born outside a valid marriage are illegitimate	Yes, Article 178 of the legitimation Act makes provision for illegitimate children to be legitimated by a valid marriage	Legitimacy Act	
Thailand	No distinction between children born in or outside a marriage for nationality purposes.	Legitimate irrespective of whether the parents are married or not.	Thai Nationality Amendment Act 1992	
Sri Lanka	There is a distinction between	Yes, subsequent marriage would legitimise an		

	legitimate and illegitimate births.	illegitimate birth.		
Vietnam	No, there is no distinction between legitimate and illegitimate birth in Vietnam. All children are effectively classed as legitimate	Legitimate whether or not the parents are married		

NORTH & SOUTH AMERICA & THE CARIBBEAN

Country of domicile	Is there any distinction between legitimate and illegitimate birth?	Would a child be legitimated by subsequent marriage of the parents?	Relevant legislation in that country	Marriage Law
Anguilla	Yes, there is a distinction between legitimate and illegitimate children.	The laws concerning legitimacy are basically the same as the UK. An illegitimate child can be legitimated by the subsequent marriage of the parents.		
Antigua & Barbuda	There is no distinction between legitimate and illegitimate births in Antigua and Barbuda and this has been the case since 1 st	Legitimate whether or not parents are married.	At present the law relating to children born out of wedlock is to be found in the Status of Children Act Cap 414, the Birth and Death (Registration) Act Cap 53 and	

	February 1987. For those born before this date, subsequent marriage of the parents will serve to legitimise and illegitimate birth.		the Interstates Estates Act Cap 225 of the 1992 Revised Edition of the laws of Antigua and Barbuda. Prior to 1 st February 1987, the relevant legislation was the Legitimacy Act Cap 346.	
Barbados	No distinction between legitimate and illegitimate births and this has been the case since 1 January 1980	Legitimate whether or not the parents are married	Children Reform Act	
Brazil	No, there is no distinction between legitimate and illegitimate children.	Legitimate whether the parents are married or not	Section 227, Article 6 of the Brazilian constitution and Section 1596 of the New Brazilian Civil Code.	
British Virgin Islands	Similar to the pre 1 July 2006 laws in the UK regarding legitimation and nationality status.	Yes a child born illegitimate will be legitimated by the subsequent marriage of the parents.	British Virgin Islands Legitimacy Act	
Canada	No distinction between legitimate and illegitimate births since 15 February 1977	Legitimate whether married or not	Citizenship Act 1977	
Cayman Islands	There is no longer any distinction between legitimate and	As there is no longer a distinction, the question of legitimisation	Status of Children Law 2003	

	illegitimate births regardless of a person's date of birth in the Cayman Islands.	by the subsequent marriage of the parents is no longer relevant.		
Columbia	Yes, under Columbian law, a distinction is made between legitimate and illegitimate births	Yes, children conceived outside marriage can be legitimated by parents' subsequent marriage	Columbian Civil Code 1976	
Dominican Republic	Yes, there is distinction between legitimate and illegitimate births.	Yes provided the parents include the child's name in the marriage certificate.		
Guyana	No distinction between legitimate and illegitimate births	Legitimate irrespective of whether the parents are married or not.		
Jamaica	No distinction between legitimate and illegitimate births in Jamaica and this has been the case since 1 November 1976	Legitimate whether the parents are married or not	Children Act 1976	
Montserrat	Yes, there is a distinction between legitimate and illegitimate birth	Yes, children born outside a marriage can be legitimated by a subsequent marriage of the parents		
Peru	No distinction between legitimate and illegitimate	Legitimate whether or not the parents are married	Civil Code 1984	

	children and has been the case since 1984			
St Kitts & Nevis	Yes, their federal laws make no distinction between legitimate and illegitimate births - that is all children are born legitimate irrespective of whether their parents are married or not.	Legitimate whether the parents are married or not.		
St Lucia	Yes, a child would not be considered legitimate at birth if the parents are unmarried	Yes, a subsequent marriage of the parents legitimises the birth of the child		
Trinidad & Tobago	No distinction between legitimate and illegitimate births. That is all children are born legitimate irrespective of whether the parents are married or not.	Legitimate whether the parents are married or not.	Trinidad and Tobago Status of Children Act 1981	
Turks & Caicos Islands	There is a distinction between legitimate and illegitimate births on the	Yes, a subsequent marriage by the parents would legitimise an illegitimate		

	Islands	child.		
USA	No distinction between children born in or outside a marriage	Child is legitimate whether the parents are married or not		

EUROPE

Country of domicile	Is there any distinction between legitimate and illegitimate birth?	Would a child be legitimated by subsequent marriage of the parents?	Relevant legislation in that country	Marriage Law
Bosnia & Herzegovina	Yes there is a distinction between legitimate and illegitimate births in Bosnia.	Under the new Family Law of the Federation of Bosnia and Herzegovina a child born illegitimate can be legitimated by the subsequent marriage of his/her parents.		
Czech Republic	No there is no distinction between legitimate and illegitimate children under Czech law.	Czech children are all treated the same irrespective of whether or not the parents married.		
Germany	Under sec. 1592 BGB, paternity status is acquired by the father in three cases: (a) the man is married to the child's mother at the time of	Marriage by itself after the birth of the child does not serve to legitimate the child. The child's legitimacy requires the additional legal act of the father's acknowledgment of paternity.		Bürgerliches Gesetzbuch (Civil Code – BGB)

	<p>the child's birth,</p> <p>(b) the man has acknowledged paternity of the child</p> <p>(c) the man's paternity is ascertained by the final judgement of a court.</p>			
Greece	<p>Yes, there is a distinction between legitimate and illegitimate births in Greece.</p>	<p>Yes provided the father makes an official declaration of paternity.</p> <p>If parents are unmarried at the time of the child's birth but make a joint declaration on registering the birth, then the father's details can be added to the birth certificate.</p> <p>If however either party is married to someone else, things are more complicated. If the mother is married to someone else then her husband will be considered the father of the child rather than the actual father. This is also true if the child is born up to 9 months</p>		

		<p>after the date of divorce as it is considered that the child would be the husband's. Protracted legal proceedings are the only way to challenge the paternity in such cases.</p>		
Ireland	<p>Yes; at common law, no child is legitimate unless his parents are married at the time of his conception or the time of his birth. The Legitimacy Act 1931 introduced the principle of legitimation into Irish law as by its provisions; a child born outside wedlock is legitimated upon the subsequent marriage of his/her parents, provided that the father is domiciled in Ireland at the time of such marriage, and that both he and the mother could have lawfully</p>	<p>Yes, The condition that both the father and mother should be free lawfully to marry each other was repealed by section 7(1) of the Status of Children Act 1987. As a result, a child is now automatically legitimated upon his parents validly marrying regardless of the marital status of the parents at the time of the birth or during the months preceding the birth.</p>	Legitimacy Act 1931	

	<p>married each other at the time of the birth or at some time during the period of 10 months preceding the birth.</p>			
Italy	<p>Yes, there is a distinction between legitimate and illegitimate births.</p>	<p>Under Italian law, legitimation of a child born outside marriage can be derived either through the subsequent marriage of the natural child's parents or through an order issued by a judge.</p> <p>Legitimation can be granted by means of an order by the judge only if it is in line with the child's interests and if the following requirements are met:</p> <p>1) the request is made by both parents or by one of them whose age should be as indicated in paragraph 5 of art 250;</p> <p>2) the parent is not in a position to legitimise his/her child by subsequent</p>		

		<p>marriage for serious reasons;</p> <p>3) the claimant's spouse gives his /her approval if still married and not legally separated;</p> <p>4) consent must be given by the child concerned if at least 16 years old. For children below 16 years and not yet acknowledged, consent must be given by the other spouse or the special guardian.</p>		
Kosovo	Yes, there is a distinction between legitimate and illegitimate births in Kosovo.	A child born illegitimate can be legitimated by a subsequent marriage of his/her parents.		
Poland	No, there is no distinction between children born within a marriage and those born outside of a marriage.	All children are born legitimate irrespective of whether or not the parents are married.		
Portugal	No, the concept of illegitimacy does not exist in Portugal and so all children are legitimate	Legitimate whether or not the parents are married. Subsequent marriage changes nothing under Portuguese law		
Romania	No distinction between legitimate and illegitimate	There is no concept of legitimacy in Romania. Their		

	children.	law states that "Children born out of wedlock shall be equal before the law as with the children born during the marriage of their parents."		
Serbia	Yes, there is a distinction between legitimate and illegitimate births in Serbia.	A child born illegitimate can be legitimated by a subsequent marriage of his/her parents.		
Spain	There is no distinction between legitimate and illegitimate children under Spanish Law	The question does not apply. Spanish citizens are equal before the law, without discrimination for any reason of birth, race, sex, religion, opinion or any other personal or social circumstances or condition.	Article 14 of the Spanish Constitution	
Turkey	Yes, a distinction is made between legitimate and illegitimate births	If a child is born illegitimate and the parents subsequently married, then provided both parents agree and sign the paternity declaration along with the medical evidence (birth report), the child will be legitimised by the marriage. The child can then take the surname of the father.		

