

DIVORCE IN TURKEY

The Republic of Turkey legally recognizes marriages executed in Turkey only after the marriage is registered at a local Vital Statistics office (Nufus Dairesi). In Turkey, all family records are recorded in the Vital Statistics office that was the original home to the family. Even if no one currently lives in that area, births, marriages, divorces, and other events are recorded in this one location. In the event the marriage was executed in another country, the marriage may be registered through the nearest Turkish consulate. The Turkish Consulate will forward the documents to the office that handles that family record book.

To terminate a legal marriage recognized in Turkey, foreign citizens are required to obtain a court divorce decree from a Turkish civil court. Divorce decrees issued in jurisdictions outside of Turkey are not considered valid for purposes of divorce in Turkey.

A power of attorney, available in Turkey from any notary public, must be granted to an attorney who will start the divorce proceedings.

Divorce proceedings are generally open to the public. However, at the request of either party, a judge may choose to preside over a closed or private court case. Judges may also take temporary measures for the protection of the parties, their property, and the welfare of their children.

When a divorce case is opened, a judge may decide on separation if he or she determines there is a possibility of the parties reconciling. A period of 1-3 years can be given for separation before the final decision to grant a divorce is reached.

Following a divorce, the woman generally resumes the last name she had before the marriage. She may, however, continue to use her husband's last name if the judge approves this decision. The divorced woman may not legally remarry within 300 days following the date of the dissolution except in cases where court permission is obtained. Additionally, some divorce decrees may have a specific notation restricting marriage for any reason; the party subject to the restriction may not remarry within the period specified on the decree.

In divorce cases in Turkey, the court also rules on child custody issues. The court may compel non-custodial parents to contribute to each child's health and education expenses in proportion to the parent's economic status.

Chapter 2 of the Turkish Civil Code provides the following possible grounds for opening court cases for a divorce or separation in Turkey:

1. Adultery, Maltreatment, threat to life, severe insult
2. Committing a crime which degrades the integrity or the prestige of the other party

3. Deserting home: If one of the parties leaves home and does not return for at least 6 months without showing a valid reason and also does not respond to the Judge's warnings, the deserted spouse may open a court case for a divorce. The party who has forced his/her spouse to leave home or who prevents the return of the spouse without any valid reason is also considered to have deserted his/her home.
4. Mental illness: If one of the parties has a mental problem which is confirmed by an official medical committee report that it cannot be treated, a court case for a divorce can easily be opened.
5. Incompatibility: Though this is the widest area of grounds for opening divorce cases, the Defendant has the right to reject a court case if the Plaintiff is found to be more at fault. If the judge, however, decides that the right of rejection is being exploited and that there is no benefit for the Defendant and the children in maintaining the marriage, a decision for divorce can be made.

If the marriage has lasted for at least one year and a joint application for divorce is made, or a court case opened by one spouse is accepted by the other spouse, the marriage is considered to be impaired. In such cases, the Judge listens to both sides and approves the agreement reached by the parties regarding the protection of the children and financial affairs. The Judge has the authority to make any changes on the arrangements. If both parties consent to these changes, the divorce decision is given.

If three years have elapsed from the date a divorce case is rejected and living together has not been established, the marriage is considered to be impaired and a divorce decision is given upon application to the court by either spouse.