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Divorce and legal separation



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European Judicial Network
(in civil and commercial
matters)

1 What are the conditions for obtaining a divorce?

One of the spouses or both of them together may apply for a divorce. In certain circumstances, the divorce must be preceded by a 6-month period for reconsideration. This is the case:

- if both spouses so request;
- if one of the spouses lives permanently with a child of theirs who is under the age of 16 and is in that spouse's custody; or
- if only one of the spouses wishes for the marriage to be dissolved.

In certain exceptional cases, however, couples covered by the above points also have the right to divorce without a period for reconsideration. This is the case if the couple have been living apart for 2 years. One spouse also has the right to a divorce without a prior period for reconsideration if it is found to be likely that the spouse was forced to enter into the marriage, or if the spouse entered into the marriage before the age of 18. If the marriage was entered into despite the spouses being closely related to one another, or if the marriage was entered into despite one of the spouses already being married or a partner in a registered partnership and the previous marriage or partnership had not been dissolved, each of the spouses has the right to a divorce without a prior period for reconsideration. In the event of bigamy, each of the spouses in the previous marriage also has the right to have it dissolved by divorce without a prior period for reconsideration. The same applies if a partnership has been registered despite one of the partners being married at the time.

2 What are the grounds for divorce?

A spouse always has the right to obtain a decree for divorce and does not need to rely on any special grounds for such a decree.

3 What are the legal consequences of a divorce as regards:

3.1 the personal relations between the spouses (e.g. the surname)

A divorce does not bring about a change in surname; the spouses retain the surname they had when they were married. However, a spouse may change back to a surname that they previously had.

3.2 the division of property of the spouses

After a divorce, the spouses' property is to be distributed between them by means of an official division of assets. The general principle is that the property is shared equally. The reason for dissolution of the marriage is of no importance for the division of the spouses' property.

3.3 the minor children of the spouses

After a divorce, the spouses continue to have joint custody of their children.

If either spouse so requests, the court handling divorce proceedings may rule on custody of the children, where the children will live, and access to the children.

In divorce proceedings, the court may also rule, without any application having been lodged, that one of the parents should have sole custody, if it is clear that joint custody is incompatible with the best interests of the child.

Both parents are responsible for the maintenance of their child. The parent who does not permanently live with the child fulfils their maintenance obligation by paying maintenance contributions for the child to the other parent.

3.4 the obligation to pay maintenance to the other spouse?

After the divorce, each spouse is responsible for providing for themselves. Exceptions apply only in certain special situations, e.g. where one spouse has difficulty providing for themselves after a long marriage has been dissolved or if there are other special grounds.

4 What does the legal term “legal separation” mean in practical terms?

There are no rules governing legal separation in Swedish law.

5 What are the conditions for legal separation?

There are no rules governing legal separation in Swedish law.

6 What are the legal consequences of legal separation?

There are no rules governing legal separation in Swedish law.

7 What does the term “marriage annulment” mean in practice?

There are no rules governing marriage annulment in Swedish law. A marriage can be dissolved either if one of the spouses dies or if a court issues a decree for divorce.

8 What are the conditions for marriage annulment?

There are no rules governing marriage annulment in Swedish law.

9 What are the legal consequences of marriage annulment?

There are no rules governing marriage annulment in Swedish law.

10 Are there alternative non-judicial means for solving issues relating to the divorce without going to court?

Only a court can decide to dissolve a marriage by divorce. There are, however, alternative options for resolving the various issues that may arise in connection with a divorce.

The spouses may obtain what is known as ‘family mediation’, which aims to deal with cohabitation conflict in couples and families. Local authorities are responsible for ensuring that family mediation can be offered to anyone who requests it, either via the local authority or via a suitable professional adviser.

The spouses also have the right to what are known as ‘cooperation discussions’. Cooperation discussions seek to reach agreement on issues relating to custody of the children, where the children will live, and access to the children. Cooperation discussions are supervised by experts. Local authorities are responsible for ensuring that cooperation discussions are offered to anyone who requests them.

If parents wish to make a change regarding custody of their children, where the children will live, or access to their children, they can enter into an agreement on the matter. Such agreements must be approved by the local authority's social welfare committee.

11 Where should I lodge my application (petition) for divorce/legal separation/marriage annulment? Which formalities must be respected and which documents should I attach to my application?

There are no rules governing legal separation or marriage annulment in Swedish law.

Divorce proceedings are heard by the district court (*tingsrätt*) of the locality in which one of the spouses is habitually resident. If neither spouse is resident in Sweden, the case is heard by Stockholm District Court (*Stockholms tingsrätt*).

If both spouses wish to divorce, they may apply for a divorce jointly. The application must be accompanied by identification documentation for the purposes of divorce for both spouses. If only one of the spouses wishes to divorce, that spouse must apply for a summons. The application must be accompanied by identification documentation for the purposes of divorce for that spouse. Identification documentation can be ordered via the Swedish Tax Agency (Skatteverket).

12 Can I obtain legal aid to cover the costs of the procedure?

In cases concerning divorce and related issues, legal aid may be granted only where there are special grounds.

13 Is it possible to appeal against a decision relating to divorce/legal separation/marriage annulment?

There are no rules governing legal separation or marriage annulment in Swedish law.

A divorce ruling may be appealed to a court of appeal (*hovrätt*).

14 What should I do to have a decision on divorce/legal separation/marriage annulment issued by a court in another Member State recognized in this Member State?

Under [Council Regulation \(EU\) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction](#) (the Brussels II Regulation), a judgment given in a Member State must be recognised in the other Member States without any special procedure being required.

The Regulation allows for applications to establish the existence or absence of grounds to refuse recognition or enforcement of a decision.

15 To which court should I turn to oppose the recognition of a decision on divorce/legal separation/marriage annulment issued by a court in another Member State? Which procedure applies in these cases?

Applications for non-recognition or non-enforcement of a foreign decision are made to the district court. Applications for a declaration that there are no grounds for refusing recognition of a foreign decision are made to the district court.

If the Brussels II Regulation does not provide otherwise, court proceedings are governed by the Act (1996:242) on Court Matters (*lagen om domstolsärenden*).

16 Which divorce law does the court apply in a divorce proceeding between spouses who do not live in this Member State or who are of different nationalities?

For divorce applications heard by a Swedish court, the case is as a rule examined under Swedish law.

In certain cases, however, regard must also be had to the provisions of foreign law. This applies in the following cases:

- Where both spouses are foreign nationals and neither has resided in Sweden for at least 1 year, a decree for divorce must not be issued against the wishes of one of the spouses if there are no grounds to do so under the law in the state of which one or both of the spouses are a national.
- Where both spouses are foreign nationals and one of them claims that there are no grounds for dissolution of the marriage under the law of the state of which he or she is a national, a decree for divorce must not be issued if, having regard to the interests of the spouse or the children of both spouses, there are particular grounds for not doing so.

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