

Divorce - Cyprus

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1 What are the conditions for obtaining a divorce?

In the case of a religious marriage, divorce proceedings can be initiated only after notice has been given to the bishop of the district in which the applicant resides. An application for divorce may be lodged three months after notification is sent to the competent bishop. No notification needs to be sent where the ground for the divorce is disappearance or mental illness.

2 What are the grounds for divorce?

- Adultery

- Immoral, disgraceful or any other repeated unforgivable behaviour resulting in serious deterioration of the marital relationship, which makes it intolerable for the applicant to live with his/her spouse.
- An attempt against life, e.g. physical abuse.
- Mental illness for three years that makes co-habitation intolerable.
- Final sentencing to a term of imprisonment longer than seven years
- Disappearance
- Sexual incapacity present at the time of marriage and which continues for at least six months and up to and including the time the action is brought.
- Unjustified desertion for two years. Long periods of absence, exceeding two years in aggregate. An invitation to return must have been sent.
- Change of religion or denomination, or exercise of moral force or attempt to proselytise the spouse into joining a sect.
- Persistent refusal to have a child despite the other spouse's desire to do so.
- Irretrievable breakdown.
- Separation for five years.

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

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

Divorce dissolves a marriage, but does not bring about a change of surname automatically. It is up to the party concerned to make a sworn statement to change his/her name.

3.2 the division of property of the spouses

Divorce has no consequences for property disputes. Any property dispute must be pursued by means of a separate application, as the procedures are distinct.

3.3 the minor children of the spouses

There are none, since the divorce proceedings are separate from and independent of the custody proceedings, unless the divorce was granted on grounds of an attempt on the life of the children or physical abuse of the children.

Divorce has no consequences for questions relating to the spouses' minor children (e.g. alimony, parental responsibility, communication). Separate applications must be lodged for these matters.

3.4 the obligation to pay maintenance to the other spouse?

Divorce does not of itself entail an obligation to pay maintenance to the other spouse. A separate application should be lodged upon separation.

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

The term 'legal separation' does not exist in Cypriot family law.

5 What are the conditions for legal separation?

Not applicable.

6 What are the legal consequences of legal separation?

Not applicable.

7 What does the term 'marriage annulment' mean in practice?

It means that, as of the date of the annulment judgment, the marriage is declared void and legally ineffective.

8 What are the conditions for marriage annulment?

Under Article 17 of the Law on Marriage, Law 104(I)/2003, as amended by Law 66(I)/2009, a marriage is not valid if it took place:

(a) before the final dissolution or annulment of any pre-existing marriage of either of the parties, including a religious or civil marriage;

(b) between relatives in a relationship of lineal or collateral consanguinity up to the fifth degree;

(c) between relatives by marriage in the direct or collateral line up to the third degree;

(d) between an adopter and an adoptee or their descendants;

(e) between a child born out of wedlock and the father who has recognised the child or his blood relatives.

9 What are the legal consequences of marriage annulment?

If a marriage is void or declared invalid by an irrevocable court judgment, it becomes completely ineffective as of the date of rendering of the judgment.

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

There are currently no such means. A draft law on mediation in family affairs is currently being prepared by the Law Commissioner.

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?

The application for the dissolution/annulment of marriage should be made at the family court (*oikogeneiakó dikastírio*) of the district (*eparchía*) in which one or both of the parties reside. The application must comply with Model 1 of the Procedural Regulations of the Supreme Court of 1990 (*Týpo 1 ton Diadikastikón Kanonismón tou Anótatou Dikastíriou tou 1990*). Proof of postage of the notification sent to the competent bishop or proof of receipt of a registered letter relating to the notification by the competent bishop, as well as the parties' marriage certificate, should be submitted along with the application as evidence.

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

Yes. An application should be filed with the competent family court.

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

Yes, it is possible to appeal against a decision relating to divorce or marriage annulment before the second-instance family court (*d evterováthmio oikogeneiakó dikastírio*).

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?

An application should be lodged before the competent family court of the Republic of Cyprus based on Regulation 44/2001.

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?

One can object by applying to the family court with which the application is filed for recognition and registration of the other Member State's decision.

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?

The family courts in the Republic of Cyprus acquire jurisdiction to handle a case relating to the dissolution or annulment of a marriage in these cases only where the parties to the case have resided in Cyprus for at least three months. The court will apply Cypriot law.

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