

## **DIVORCE PROVISIONS IN CYPRUS**

### **ARMENIANS, MARONITES, ROMAN-CATHOLICS**

Under this category, fall marriages which have taken place in accordance with the rules of the Church of one of the above Ethnic communities. It should be noted, however, that a person will only be considered as belonging to one of the above ethnic groups if they are Cypriot citizens.

Before the enactment of the Family Courts (Religious Groups) Law of 1994, no divorce was possible for persons belonging to the Roman-Catholic or Maronite community.<sup>1</sup>

Grounds for divorce for civil and ecclesiastical marriages<sup>2</sup>:

- 1) Any reason likely to affect the stature of marriage according the ecclesiastical law of the religious group that the parties belong to. It seems that the legislator here intended to cover cases where the marriage had not been consummated in accordance with the law of the Roman Catholic Church which declares such marriages null and void.
- 2) Adultery committed by the other party. This ground for divorce will not be accepted by the court if it can be shown that the complainant knew of his/her spouses infidelity and consented. The complainant will for example, indirectly consent to his/hers spouses affair if it can be shown that after the infidelity the spouses carried on living together for six months.
- 3) Continuous violence against the petitioner. An act of violence is an act carried out against the petitioner or against her children and which can result in the breakdown of physical or mental well being. Such a petition will be rejected if it can be proved that after the violence had taken place, the couple continued living together peacefully for a year.
- 4) Final conviction which will lead to imprisonment of one spouse for seven years or more regarding any crime or to imprisonment for six months due to violence against the petitioner. A petition for divorce can only be filed two years after the date of conviction provided the conviction still exists.

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<sup>1</sup> See "Grounds for divorce under the Law of Cyprus: the road to Europe". G.A Serghides Ph.D Exon, President of Family Court

<sup>2</sup> See Family Courts (Religious Groups) Law

- 5) Disappearance. A petition for divorce can only be filled if the petitioner has had no news of the other party for three years.
- 6) Inexcusable desertion of petitioner for a period exceeding two years. Shorter periods of inexcusable absence for a period of four years which sum up to two years constitute a ground for divorce.
- 7) Inability to have sexual intercourse. This inability must have existed during the marriage and must have carried on for six months and still be in existence during the relevant petition. This will not be a ground for divorce, however, where the petitioner knew of this inability before the marriage.
- 8) Refusal to have children despite the other spouse's wishes.
- 9) Insanity which carries on for three years after the marriage and makes cohabitation intolerable.
- 10) Breakdown of marital relationship due to the accused party or to both to such an extent that cohabitation has become intolerable for the spouse petitioning for divorce.

In the case of civil weddings, the following also apply:

There is a revocable presumption that the marital relationship has suffered a serious breakdown in cases of bigamy, adultery, desertion of the petitioner or an attempt on petitioner's life. Such a presumption, however, may be revoked by contrary evidence produced by the accused party.

There is a presumption of irrevocable breakdown of a marital relationship where the spouses have been apart for a period of four years. It should be noted that co-habitation not exceeding six months during this four year period, will not stop the four year period from running. In the case of the four year continuous separation, there is an irrevocable presumption that there has been a serious breakdown of the marital relationship. This means, that no evidence to the contrary may be produced.

- 11) Change of sex, desertion of the petitioner, attempt on petitioner's life. (unless provided otherwise by other laws)
- 12) Death of one of the spouses brings a marriage to an end.

### **Divorce procedure**

The parties intending to get a divorce must first notify the competent cleric (cleric in the area where the husband or wife had their usual residence) of their intention to get a divorce (unless the reasons for divorce are those of disappearance or insanity).

Although the competent cleric is obliged by law to make an attempt to reconcile the couple, in practice this procedure is not followed. Nevertheless, the parties are not to bring proceedings in the Family Courts (Religious Groups) unless such notice is

served and unless three months have elapsed from the date the competent cleric received their notice.

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