

## **DIVORCE PROVISIONS IN CYPRUS**

### **TURKISH-CYPRIOTS**

Divorce provisions for Turkish Cypriots, fall under two categories depending on whether their marriage was celebrated in Cyprus or abroad. Each category has different grounds for divorce and will be heard by either the President of the District Court or the Family Court. It should be noted that according to our Constitution a married woman takes on the nationality of her husband. So, if a Turkish-Cypriot were to marry a Russian citizen, she would automatically be said to belong to the Turkish-Cypriot community.

#### 1. Marriages celebrated in Cyprus

Such cases will be heard by the president of the competent District Court. The preconditions are not only that the parties had celebrated their marriage in Cyprus but also that:

- It had been celebrated in accordance with the 2003 Act or,
- It had been celebrated in accordance with Law CAP.279 (the “Previous Law”).

Divorce proceedings under this heading may be brought by either the husband or the wife on the account that, since the celebration of the marriage, the accused party:

- Has committed adultery.
- Has without cause, deserted the other party for a period of at least three years immediately preceding the presentation of the petition.
- Has treated the other party with cruelty.
- Is of incurably unsound mind and has been in continuous care and treatment for a period of at least five years immediately preceding the presentation of the petition.

A wife (but not the husband) can also claim the following grounds for divorce, namely that since the celebration of the marriage, her husband has been guilty of:

- Rape
- Sodomy
- Bestiality

These grounds for divorce, under this heading, are based on a British family law Act (Matrimonial Causes Act (1959)) and can no longer be said to reflect modern British family law. In fact, these grounds for divorce have not been applied in Britain since 1969.<sup>1</sup>

## 2. Marriages celebrated abroad:

Such cases were heard before the enactment of the 2003 Act. They were heard by the Family Court and the grounds for divorce were the following:

- The grounds provided by the Charter of the Holy Orthodox Church of Cyprus. (See above, Greek-Orthodox category). This is a rather unfortunate since it applies the same grounds of divorce to a community which does not belong to the Greek-Orthodox faith and does not wish to be bound by its rules.<sup>2</sup>
- Five year continuous separation. It should be noted that co-habitation not exceeding six months during this four year period, will not stop the five year period from running. In the case of the five year continuous separation, there is an irrevocable presumption that there has been a serious breakdown of the marital relationship.
- Serious breakdown of marital relationship which makes cohabitation intolerable for the spouse petitioning for divorce.

With the above in mind, it would be safe to say that the grounds for divorce applied to Greek-Orthodox and religious group petitioners more accurately reflect modern European family law trends.

The Laws regulating the divorce in the Turkish-Cypriot community are based on the assumption that the situation created by the 1974 invasion continues to exist.<sup>3</sup>

**This article provides general information only. It should not be regarded or relied upon as legal advice. The author assumes no liability whatsoever in connection with the use of information contained in this article.**

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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 “Μηνιαία Νομική Επιθεώρηση (Αρμενόπουλος)” May 2004. G.A Sergides Ph.D Exon, President of Family Court.

<sup>3</sup> See “Μηνιαία Νομική Επιθεώρηση (Αρμενόπουλος)” May 2004. G.A Sergides Ph.D Exon, President of Family Court.