

Contested Divorce in Turkey: Legal Grounds and Stages



The termination of a marriage is not merely the liquidation of a contractual relationship between two individuals; it is also the restructuring of the legal status of the family, which is the fundamental cell of social order. According to the Turkish Civil Code (TMK), the institution of divorce is governed by two main judicial avenues, "uncontested" and "contested," depending on whether the parties' wills align. In cases where the spouses cannot agree on the main idea of terminating the marriage or on the ancillary legal and financial consequences of the divorce (such as custody, child and poverty alimony, material and moral compensation, and the liquidation of the property regime), a contested divorce in Turkey is initiated as the legal solution. Even if the parties have reached an agreement on every issue, the process must inevitably be carried out within the framework of contested divorce provisions when the requirement of being married for at least one year, which the law requires for an uncontested divorce decision, cannot be met.

A contested divorce in Turkey is, by its very nature, one of the legal processes in which the obligations of claim, defense, and proof are governed by the strictest procedural rules. Merely declaring the will to divorce to the court is not sufficient to establish a verdict; it is mandatory to prove the existence of a legally valid divorce ground and that this ground stems from the fault of the other spouse, using legal evidence in accordance with the norms of the Code of Civil Procedure (HMK). In our legal system, the "fault principle" forms the backbone of contested cases. When assessing whether the continuation of the marriage has become unbearable for the parties and society, the courts weigh the spouses' fault rates and distribute financial obligations and compensation according to this scale of fault. No matter how much the opposing party resists ending the marriage, once the plaintiff proves that the foundation of the marriage has been irreparably shaken and that the defendant is at fault, the court will grant a divorce decree, as no one can be forced to maintain a marital union against their will.

Pre-Case Preparation, Jurisdiction Rules, and the Legal Aid Mechanism

Successfully managing a contested divorce in Turkey depends on filing the case in the correct court, with a complete petition, and through strategic planning. The competent courts for divorce cases in our law are the Family Courts, which are specifically authorized to resolve disputes regarding family law. In smaller judicial districts where a Family Court organization has not yet been established, Civil Courts of General Jurisdiction handle these cases under the "capacity of Family Court." Regarding the competent court (geographical jurisdiction), the legislator has introduced a three-alternative jurisdiction rule to facilitate the spouses' right to file a lawsuit. Accordingly, the lawsuit can be filed in the court of the plaintiff's place of residence, the court of the defendant's place of residence, or the court of the place where the spouses actually lived together for the last six months prior to the filing of the case.



The filing process begins with submitting a comprehensive lawsuit petition to the court that includes the plaintiff's identifying information, the subject of the dispute, the legal grounds relied upon, the alleged concrete facts in chronological order, and clear demands (amounts for alimony, custody, compensation). One of the biggest obstacles encountered in practice is when the defendant spouse's address is unknown, or the spouse leaves the house and disappears without a trace. According to the Turkish legal system, the lawsuit petition must absolutely be served to the defendant for the case to proceed. The public perception that a lawsuit cannot be filed against a spouse whose address is unknown is incorrect; even if the defendant's address is unknown, any available final information to reach them is presented to the court. The court seeks the address by conducting a comprehensive police investigation. If, despite all these investigations, a civil registry (MERNIS) or actual address cannot be found, the legal process does not hit a dead end; the court applies the "notification by publication" method, performing the notification process by publishing an announcement in a newspaper or on the electronic notification portal, and continues the trial.

A contested divorce in Turkey is costly processes that require the advance payment of court fees and expenses. However, for individuals experiencing economic hardship who

cannot afford court fees and attorney fees, the "Legal Aid" institution offered by the state is a vital safeguard. Persons with insufficient financial means can apply for legal aid to the bar association of their province, along with a certificate of poverty from the neighborhood headman (muhtar), a certificate of residence, and a photocopy of their identity card. If the bar association deems this request appropriate, a lawyer is appointed to the person free of charge, and their right of access to justice is secured by an exemption from court fees.

Divorce Grounds in the Context of Substantive Law

To prevent courts from making arbitrary divorce decisions by straying from objective criteria, the Turkish Civil Code has limited the grounds for divorce (numerus clausus principle) and divided these grounds into two main systematic categories: general and special divorce grounds. Deciding which ground to build a case upon is the most strategic element that directly determines who will bear the burden of proof, what types of evidence can be presented to the court, and the risk of the case being rejected.

General Divorce Grounds: Irretrievable Breakdown of Marriage (TMK Art. 166)

According to Ministry of Justice and TURKSTAT data, as well as court statistics, more than 98 percent of contested divorces in Turkey are based on the ground of the irretrievable breakdown of the marriage (TMK Art. 166). Formulated as "severe incompatibility" among the public, this general reason does not point to a specific action whose boundaries are strictly predetermined by the lawmaker. On the contrary, it is a flexible umbrella concept expressing that the bond of love, respect, trust, and fidelity between the spouses has collapsed to a degree that makes the continuation of the marriage impossible and joint life unbearable. In sociological surveys and court decisions, the most prominent divorce justification within this scope has been identified as the "irresponsible and indifferent behavior of the spouse," at a rate of 32.2 percent.



The spectrum of actions evaluated under the general divorce ground is extremely wide. Subjecting the spouse to physical or psychological violence that does not amount to battery, cultural clashes, continuous and destructive arguments, disrespectful attitudes towards the spouse's family, avoiding sexual intimacy without a justified medical reason, driving the family into economic ruin by excessively borrowing money, or exposing family secrets to third parties are facts considered within this scope. With the increase in digitalization, "digital violence" and "trust-breaking behaviors," which have entered jurisprudence, are also among the most frequently encountered claims under TMK 166. For instance, if a spouse messages someone of the opposite sex on social media platforms unusually and at inappropriate hours, even if this cannot be conclusively proven to have turned into physical sexual intercourse (adultery), it is considered a severe violation of the obligation of fidelity in marriage and trust-breaking behavior according to the Supreme Court's jurisprudence, attributing heavy fault and constituting a basis for a divorce decree.

The critical procedural rule in cases based on general grounds is the requirement that the plaintiff's own fault must not be heavier than the defendant's fault. If the party filing the lawsuit is more heavily at fault for the breakdown of the marriage than the other

spouse, the defendant party earns the right to object to this lawsuit. However, if this objection by the defendant is in the nature of an abuse of rights—meaning the marital tie is completely severed and neither the parties nor any mutual children have any legal or moral benefit left worthy of protection in the continuation of this marriage—the judge may disregard the objection and rule for divorce.

Special Divorce Grounds (TMK Art. 161 - 165)

Special divorce grounds are situations of severe fault where the lawmaker has clearly defined their names and limits, and if they occur, it is accepted as an indisputable legal presumption that the marriage has become unbearable. When a lawsuit is filed based on a special ground, the plaintiff spouse does not need to additionally prove that the event made the shared life unbearable for them; merely proving that the specific act stated in the law occurred is sufficient.

Contested Divorce in Turkey Due to Adultery (TMK Art. 161)

- Adultery is the act where a married person violates their absolute duty of fidelity to their spouse by knowingly and willingly engaging in sexual intercourse with a person of the opposite sex other than their spouse.
- The most critical elements in adultery cases, which is one of the absolute grounds for divorce in our law, are the statute of limitations (forfeiture period) and the absolute degree of proof.
- The right to file a lawsuit due to adultery must be exercised within six months from the date the betrayed spouse learns of the act of cheating, and in any case, before five years have passed since the act occurred.
- If the six-month period from the date of learning passes, the right to sue is forfeited.
- Moreover, if the spouse who learns about the adultery forgives the cheating spouse (by verbal declaration or by showing forgiveness voluntarily by continuing the normal course of married life), the right to sue is permanently eliminated.
- Proving the allegation of adultery is the most challenging stage of the trial. Hotel accommodation records, intensive HTS (call and base station) traffic with a third person at unusual hours, definitive photographs, signs of pregnancy or venereal

diseases, and the statements of people who directly witnessed this act are the means of proof.

- However, if mere phone messaging or sitting in a cafe does not prove the existence of a sexual relationship beyond a shadow of a doubt, the court characterizes this situation not as adultery, but as trust-breaking behavior.
- Due to this difficulty of proof, an "alternative (graduated) lawsuit" strategy is used in practice to eliminate a significant risk such as the dismissal of the case.
- In the petition, the court is primarily asked for a divorce due to adultery (TMK 161);
- In anticipation of the possibility that the judge may conclude that adultery could not be proven, a graduated request for divorce is made due to the irretrievable breakdown of the marriage (TMK 166), stating that the same actions should be considered trust-breaking behaviors.
- Thus, the risk of rejection caused by being tied to a single legal reason is eliminated.
- Additionally, if a divorce case was filed due to severe incompatibility and one of the spouses engages in cheating with someone else while the trial is ongoing, this new event cannot be added to the current file as an adultery claim due to the "prohibition against expanding claims and defenses."
- In this situation, what needs to be done is to file a new divorce lawsuit based on the ground of adultery and to consolidate this new file with the ongoing existing lawsuit.

Intent on Life, Severe Cruelty, and Degrading Behavior (TMK Art. 162)

- This article regulates three different situations covering the most severe attacks directed at a spouse's right to life, physical integrity, and moral existence.
- Intent on life refers to acts remaining at the attempt stage, executed by a spouse with the intention of killing the other spouse.
- Severe cruelty is defined as subjecting the spouse to systematic physical or psychological violence, locking them in a room, leaving them hungry or thirsty, or inflicting torments amounting to torture.
- Degrading behavior encompasses actions that severely damage the spouse's social prestige and honor, such as issuing grave insults in public, making baseless accusations, or slandering.

- The existence of these facts is generally proven through forensic medical reports, records from health institutions showing signs of battery, restraining orders taken under Law No. 6284, audio/video recordings, and the testimonies of eyewitnesses.

Committing a Crime and Leading a Dishonorable Life (TMK Art. 163)

- This reason finds an area of application when one of the spouses commits a degrading (infamous) crime while the marriage continues or adopts a dishonorable lifestyle contrary to society's general norms of morality and virtue.
- Theft, fraud, bribery, or crimes against sexual inviolability are examples of degrading crimes;
- Continuous gambling addiction, disregarding the family by engaging in illegal business, running a brothel, or leading an irresponsible life towards society and the family due to extreme alcohol and drug addiction are examples of leading a dishonorable life.
- However, the existence of these acts alone is not enough; the court also investigates whether these situations have made living together unbearable for the other spouse.
- The burden of proof is fulfilled with finalized criminal court decisions, criminal records, and witness statements from the surrounding environment.

Contested Divorce in Turkey Due to Abandonment (TMK Art. 164)

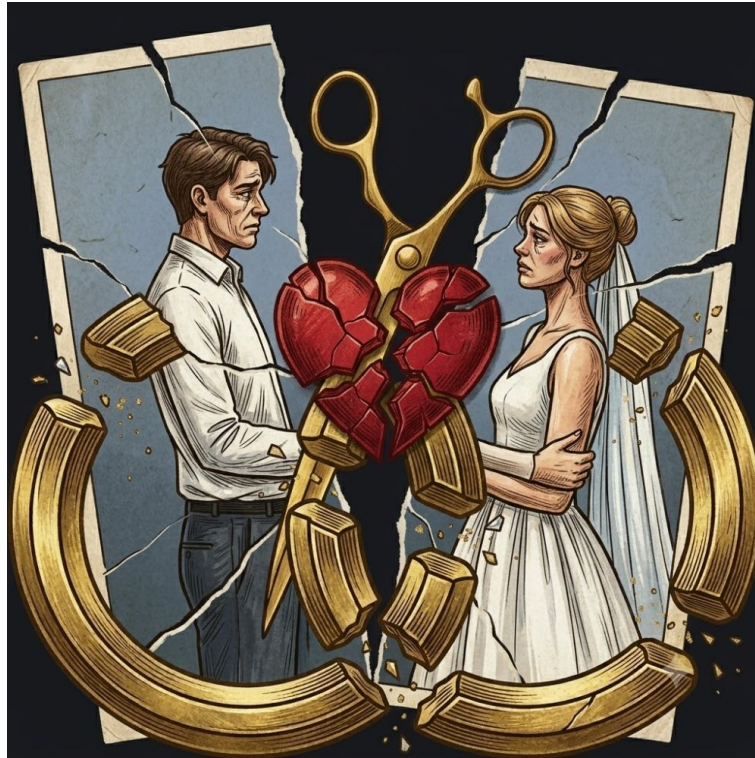
- Abandonment is when one of the spouses leaves the joint residence and does not return, without a justified legal reason, with the intention of not fulfilling the obligations arising from the marital union.
- Staying away for justifiable reasons such as mandatory military service, detention, or medical treatment is not considered abandonment;
- However, if the spouse stubbornly refuses to return home even after these mandatory reasons have disappeared, the act of abandonment has occurred.
- Divorce due to abandonment is the type of lawsuit where procedural rules are applied most strictly.
- It is a legal requirement that the joint residence has been abandoned for at least six months.

- An official "return home" warning cannot be sent to the other spouse through the court or a notary public by the abandoned spouse before at least four months have passed since the beginning of the abandonment act.
- The issued warning must include details such as the house address, where the key can be found, or travel expenses, and a full two-month period must be given to the spouse to return after the warning.
- If the spouse does not return without stating a justified reason despite the expiration of the two-month period, only then can a lawsuit be filed.

Divorce Due to Mental Illness (TMK Art. 165)

- While any illness does not form a legal basis for terminating a marriage, mental illness is the exception to this rule.
- If one of the spouses develops an incurable mental illness during the marriage, such as advanced schizophrenia, severe bipolar disorder, or dementia, the healthy spouse can file for divorce as they would experience extreme difficulty in sustaining the marriage union.
- The one and only piece of evidence to be relied upon in this lawsuit is a medical report stating "it is not possible for the illness to heal," which must be obtained from a fully equipped official health board.
- The ground of mental illness is not limited by any forfeiture period in the law; a lawsuit can be filed at any time as long as the destructive effects of the illness persist.

"De Facto Separation" in Divorce Law



The institution of divorce due to "de facto separation," located in the 4th paragraph of Article 166 of the Turkish Civil Code, has recently witnessed a historic reform with the adoption of the 9th Judicial Package (Law No. 7531). The previous legal regulation stipulated that if a lawsuit filed on any divorce ground was rejected by the court due to reasons such as lack of evidence or failure to determine fault, the spouses had to wait three years from the finalization of the decision, during which they must not have re-established their joint life. This strict three-year waiting period victimized individuals whose marriages had practically ended but who remained legally married, preventing them from starting a new life. Moreover, because the marriage certificate remained valid throughout this three-year period, the spouses' obligation of fidelity towards each other continued uninterrupted; a spouse who violated fidelity during this period carried the risk of facing serious compensation claims due to adultery or heavy fault.

With the new regulation enacted by the Grand National Assembly of Turkey following the Constitutional Court's annulment decision regarding the repealed provision, the mandatory waiting period required to prove that the parties could not establish a joint life after a divorce case is rejected has been reduced from three years to one year. Extreme

caution must be exercised in calculating this period: The one-year calendar begins to run not on the day the case is rejected in the local court, but on the day the decision becomes completely final by passing through the appellate and cassation processes. Lawsuits filed before this one-year (365 days) de facto separation period expires are instantly rejected due to the absence of a cause of action condition. When it is proven with declarations and witness statements presented to the court after one year has passed that the parties did not come together in the context of a husband-wife relationship and did not re-establish emotional and physical partnership, the judge must rule for a divorce due to de facto separation, without looking at the fault ratios of the spouses.

Additionally, the 9th Judicial Package also touched upon a controversial issue regarding women's use of surnames. Despite the annulment decisions of the Constitutional Court, the new law continued to stipulate that a woman should take her husband's surname upon marriage or, if she wishes, use her own surname in front of her husband's surname. For a newly married or currently married woman to use solely her maiden name, directly applying to the Civil Registry Office is not sufficient; she needs to file a lawsuit in the Family Court to secure this right.

Procedures and Trial Stages in Contested Divorce Cases in Turkey

A contested divorce trial in Turkey is a technical marathon consisting of petitions, preliminary examination, investigation, and oral trial stages, where HMK rules are strictly applied. Any procedural error made by the parties can lead to the loss of even a justified case.

Exchange of Petitions (Mutual Petitioning Stage)



- After the lawsuit petition is submitted to the court and a merit number is assigned, the file is issued for notification by the relevant court clerk's office.
- The defendant party has the right and a two-week (14-day) period to submit a "response petition" to the court containing their own defenses, objections, and claims, starting from the date the lawsuit petition is legally served to them.
- Within this two-week period, the defendant can also file a "counter-lawsuit" by putting forward their own divorce grounds in response to the case filed by the opposing party if they wish.
- After the defendant's response petition is served to the plaintiff, the plaintiff gains the right to submit a "replication (cevaba cevap)" petition within a two-week period to respond to these claims.
- The process is closed with the final "rejoinder (ikinci cevap/düplik)" petition to be submitted by the defendant against this petition, again within two weeks.
- This mutual correspondence phase, which takes an average of 3-4 months, is called the exchange of petitions. Upon the completion of this stage, the subjects of the dispute are locked.

- Because our law has a "prohibition on expanding defenses and claims," new facts not completely declared during the petition stage or evidence not included in the evidence list generally cannot be incorporated into the file in the subsequent stages of the trial.

Preliminary Examination Hearing in Contested Divorce Cases in Turkey

- A hearing date cannot be scheduled by the court until the petitions stage is completed. After the parties exhaust their right to petition, depending on the court's workload, the first hearing, named the "preliminary examination hearing," is generally held 4-5 months after the lawsuit is filed.
- The preliminary examination hearing is a technical session where a procedural x-ray of the file is taken without entering the substance of the dispute.
- In this hearing, the judge primarily decides whether the case conditions (the jurisdiction of Turkish courts, duty rules) and jurisdiction objections, if any, exist.
- Subsequently, by listening to the parties' claims, the judge individually identifies the legal points they agree on (uncontested) and disagree on (contested) and records these in a preliminary examination minute.
- The judge encourages the parties to settle; if no compromise can be reached, the judge initiates the preparation procedures for transitioning to the investigation stage.
- Contrary to popular misconception, a substantive investigation is not conducted at the preliminary examination hearing, which is the first hearing, and witnesses are absolutely not heard at this hearing; even if witnesses are ready and waiting at the door, this rule does not change. If the parties are represented through their lawyers at this hearing, the personal attendance of the principals is not mandatory.
- At the end of the hearing, the parties are generally given a strict two-week period to submit their evidence completely and to notify their final lists containing the names and addresses of witnesses.

Investigation Stage (Collection of Evidence)

- The main trial phase conducted to illuminate the disputed facts identified in the preliminary examination, to prove the claims, and to reach the legal truth is called the

investigation.

- This is the part of a contested divorce case in Turkey that takes the longest time (approximately 1 year and 3-5 sessions).
- In this stage, the court collects information by writing warrants (official letters) to official and private institutions.
- Social and Economic Status (SED) investigations of the spouses are conducted through the police department.
- If there are claims of adultery or trust-breaking behaviors, retrospective HTS records containing call data, messaging times, and base station data are requested from the Information and Communication Technologies Authority (BTK) and operators.
- Hotel records, bank statements, and credit card expenditure breakdowns are subpoenaed to the file.
- Invitations are issued for the witnesses declared by the parties, ensuring they are heard before the court.
- If there is a dispute regarding the custody of common children, a Social Investigation Report (SIR) is prepared by pedagogues, psychologists, or social workers within the Judicial Support and Victim Services Directorate by interviewing the children and parents, analyzing whose side the child's best interest lies in staying with.
- The judge, pursuant to TMK Art. 184, possesses the authority to freely evaluate the evidence in divorce cases; even the admissions (confessions) of the parties are not binding unless they satisfy the judge's conscience.

Oral Trial and Verdict (Decision Stage)

- When there is no more evidence to collect and the investigation procedures are fully completed, the court declares that the investigation is over and proceeds to the oral trial phase.
- In the final hearing, the judge grants the parties or their attorneys their final word rights regarding the substance of the case by asking, "I am concluding the case, do you have a final thing you want to say?"

- The judge announces the reasoned decision by evaluating all the collected evidence, claims and defenses, SIR reports, and witness narratives as a whole.
- If the collected evidence has not sufficed to prove the plaintiff's claims, or if the plaintiff is more heavily at fault than the other spouse, the case is dismissed; if the fault balance and conditions of proof are in favor of the plaintiff, the acceptance of the divorce is ruled.
- Along with the acceptance decision, alimony amounts, compensations, and custody matters are also adjudicated.

Legal Remedies (Appeal and Cassation) Process

- The decision given by the local Family Court is not an instantly finalized decision.
- After the reasoned decision is served in writing to the parties, the party who finds the decision illegal, incomplete, or unjust has the right to apply to the Regional Court of Justice (Istinaf) within two weeks to demand an audit of the decision by the higher court.
- After the appellate court's review is completed, under certain legal conditions (monetary limits and legal necessities), an application can be made to the Supreme Court (Yargıtay/Temyiz) against the given decision within two weeks from the notification.
- For final financial consequences (such as compensation)—excluding provisional measures regarding alimony and custody—to be subject to execution, or for the spouses' married status in the civil registry to be updated as "divorced", the complete exhaustion of these legal remedies or the passing of the periods without objection, allowing the decision to become final, must be awaited.
- If there is a change in the financial and social circumstances of the parties after the decision is finalized, an "adaptation lawsuit" can be filed to increase or decrease the alimony.

Law of Evidence and Witness Hearing Procedure

The structure of a contested divorce case in Turkey is entirely built upon the lawfulness of the evidence and the credibility of witness testimonies.

Contested Divorce in Turkey and the Lawful Evidence Requirement

In the Turkish legal system, it is a constitutional necessity that evidence obtained to prove the other party's fault must have been acquired through lawful means. Voice/GPS recording devices placed in a spouse's car, spyware secretly installed on a mobile phone, message transcripts taken from hacked social media accounts, or images obtained via hidden cameras hold the status of illegal evidence. Not only will such data not be accepted as means of proof in court, but it could also lead to the presenting party being tried for the crimes of "violation of the privacy of communication" and "violation of the privacy of private life" under the Turkish Penal Code. However, a document lying openly in public view in the spouses' shared living areas or a randomly seen communication record can be accepted as valid evidence in line with judicial precedents.

Dynamics of the Witness Hearing Regime (HMK 240-255)

Because actions such as domestic violence, insults, or infidelity generally occur behind closed doors and away from third-party eyes, witness statements are the most fundamental and transformative means of proof in divorce cases. A witness is a person who presents information based on their own observations, sights, or facts they directly heard. The court will ignore if the witness makes assumptions, makes legal evaluations, or adds personal commentary.

- **Witness List and Prohibition of Substitution:** The parties present a list containing the names, surnames, and addresses suitable for notification of their witnesses within the strict time frame granted by the court. According to the HMK, submitting a second witness list to the court or bringing forward a new person not on the list as a witness later is prohibited. While pointing out a substitute witness is generally not possible, a new witness name can be submitted under exceptional circumstances determined by Supreme Court jurisprudence (such as the death of the declared witness, falling into a vegetative state, or becoming absent).
- **Kinship Bond and Reputation:** The widespread belief stating "the testimony of relatives is invalid" is completely legally unfounded. Since divorce cases pertain to the intimate domain, the people most acquainted with these events are naturally the mother, father, siblings, or close circle. According to the clear provision of the

General Assembly of Civil Chambers and HMK Article 255, the general rule is that witnesses tell the truth unless there is serious and convincing evidence to the contrary; a bond of kinship or any other closeness does not, in and of itself, constitute a reason to devalue a witness's statement.

- **Obligation of the Witness to Attend the Hearing:** Testifying is a legal obligation and a public duty for citizens. A witness to whom a proper invitation (subpoena) has been sent by the court must attend the hearing and recount what they know. A "forceful bringing (ihzar)" decision is issued under HMK 245 regarding a witness who does not attend the hearing without presenting a valid medical excuse, and they are brought to the hearing by force of law enforcement (police/gendarmerie); additionally, a disciplinary fine can be applied to them.
- **Procedure in the Hearing and Cross-Examination:** Witnesses are taken into the courtroom separately, ensuring they do not hear the statements of other witnesses. Excluding those younger than 15 and those whose discernment power is restricted to the point of not comprehending the meaning and importance of an oath, all witnesses are made to take an oath while standing by the court. The witness's narrative is listened to without interruption. Afterwards, pursuant to HMK Article 152, the judge and, if present, the party attorneys can direct direct, cross-questions to the witness; principals without a lawyer can only ask their questions through the judge. If the witness does not speak Turkish, questions are translated, and answers are recorded in the minutes via a translator appointed by the court. Written questions are given, and written answers are obtained from witnesses who are deaf or mute but can write. Furthermore, a witness fee is paid to the summoned witness for their travel and lost time; however, the witness can waive receiving this fee if they wish, and this situation is recorded in the minutes.
- **Letters Rogatory (Hearing by Instruction) and Exceptions:** If the witness resides in a city different from the province where the case is being heard and traveling is difficult, the main court handling the case sends an "instruction letter" to the Family Court in the place where the witness is located (letters rogatory procedure). The witness is heard in the court in their own city, and their statements are written down and returned to the main court. On the other hand, in cases where a witness is

severely ill, paralyzed, or disabled to the point of being unable to come to the courthouse, the judge and court clerk personally going to the witness's address to take a statement at their home is a method applied under the scope of human rights and the legal right to be heard.

The Judge's Psychological Investigation and Case Management



In contested trials, the judge is not a passive listener, but an active manager responsible for clarifying the case. They direct in-depth questions during hearings to measure the inner motivations of the parties, the true owner of fault in the marriage's destruction, and the magnitude of the dispute. The judge investigates communication breakdowns regarding the marriage, the background of physical or economic violence claims, the financial management of the parties (debts, credit cards, joint properties), and familial or social pressures on the divorce decision. Especially if children are involved; the judge asks questions testing the parents' plans regarding the children's education and mental health, the children's psychological safety, which parent they have formed a stronger bond with, and their vision regarding custody. In adultery claims, the judge meticulously examines the chronology of the cheating, whether it was a one-time occurrence or

systematic, and the nature of the evidence pertaining to it. The harmony between the honest, consistent, and logical answers given to the judge's questions and the witness narratives is decisive in forming conscientious conviction.

Ancillary Consequences of Divorce: Custody, Alimony, and Compensation

Divorce is not just the severing of a legal bond, but the construction of a brand new legal and economic order for the future.

Custody and the Principle of the Best Interests of the Child

The sole compass to be based on in custody requests is the "best interests of the child." While determining custody, rather than the financial power of the parents, the court looks at the environment where the child can maintain their psychological, pedagogical, and physical development more healthily. According to Supreme Court precedents, the custody of children between the ages of 0-7, who are considered "in need of maternal affection and care," is as a rule given to the mother, unless the mother has proven, very severe faults that harm the child, such as mental illness, leading a dishonorable life, or applying physical violence to the child. However, if situations that endanger the child's development, such as leading a dishonorable life or committing a serious crime, are determined, custody is left to the other spouse. The judge absolutely considers the expert opinion in the SIR (pedagogue) report when rendering a decision and listens to the statements of a child at the age of discernment (generally 8 years and older).

Contested Divorce in Turkey, Alimony, and Compensation

Three different types of alimony items are regulated in our laws to protect the party who will fall into economic hardship:

- **Precautionary Alimony (Tedbir Nafakası):** It is a temporary shelter and livelihood allowance determined by the judge's discretion for the spouse and children who will face economic hardship, without distinguishing between being right/wrong, throughout the trial period starting from the moment the case is filed until the decision becomes final.

- **Poverty Alimony (Yoksulluk Nafakası):** It is the alimony that a spouse who will fall into poverty due to divorce can demand indefinitely from the other party to provide for their own livelihood, on the condition that they are not more heavily at fault than the other party in the divorce (they must be faultless, less at fault, or equally at fault).
- **Child Support (İştirak Nafakası):** It is the amount that the parent who is not granted the right of custody must contribute every month in proportion to their financial strength toward the care, education, health, and shelter expenses of the joint children.



After the decision becomes final, a separate "alimony adaptation (increase or decrease) lawsuit" can be filed for alimony amounts that remain insufficient due to inflation or changes in living standards.

The spouse whose existing or expected benefits arising from the marital union are damaged due to the events causing the divorce can demand material compensation from the faulty party. On the other hand, moral compensation is awarded in favor of the spouse who experiences a psychological breakdown and suffers an attack on their personal rights due to adultery, severe insult, physical violence, or degrading behaviors, to be collected from the faulty party. Compensation amounts are determined in proportion to

the determined socio-economic statuses of the parties and the severity of the fault.

2026 Projection: Trial Durations and Case Costs

The most fundamental hesitations of individuals entering a contested divorce case process in Turkey are the prolongation of time and economic burdens.

Duration Analysis: How Many Years Does a Contested Divorce Case in Turkey Take?

The duration of the case depends on the speed of collecting evidence, the response time of relevant institutions to warrants, the number of witnesses, and the general workload of the courthouse. An average calendar is shaped as follows:

- **First Instance Court Stage:** Considering the exchange of petitions, preliminary examination, collection of evidence, and investigation hearings, the trial in the local court generally takes 4 to 6 hearings, and receiving a verdict takes around 1.5 to 2 years (18-24 months).
- **Appeal (Regional Court of Justice) Stage:** In case of an objection to the local court decision, the review and adjudication of the file in the appellate chamber costs an additional time of on average 1 to 1.5 years (12-18 months).
- **Cassation (Supreme Court) Stage:** If the appellate decision is also appealed to the Supreme Court (not every file is subject to cassation), the process at the Supreme Court also takes approximately 1 year.
- **Grand Total:** When all these legal remedies are exhausted, the complete finalization of a contested divorce case in Turkey can take a long period such as 3 to 5 years.

However, if the parties reach an agreement at any stage of the trial, they can halt the contested process, submit a protocol to the court, convert the case into an "uncontested divorce," and conclude it in a short time.

2026 Current Attorney and Fee Costs

The economic dimension of a divorce case in Turkey consists of trial fees collected by the state and attorney fees paid to lawyers who are self-employed professionals. According to 2026 legal regulations and bar association tariffs, the cost breakdown is as follows:

Expense Type (2026 Cost Analysis)	Amount and Details
Fees Recommended by Bar Associations (Provincial Basis)	The fees recommended to lawyers by metropolitan bar associations such as Istanbul, Ankara, and Izmir for complex contested divorce and compensation/custody disputed cases range between 200,000 TL and 250,000 TL for the year 2026. In situations where Material/Moral compensation is requested, an additional proportional fee at a rate of 15%-16% of the requested case value can be added. When only a petition writing service is desired, this fee is between 20,000 TL and 30,000 TL.
State Fees and Trial Expenses	The total minimum court expense—comprising the application fee (732.00 TL), advance fee (732.00 TL), power of attorney fee (104.00 TL), power of attorney stamp (164.00 TL), and expense advance covering witness/notification/expert transactions (approximately 3,000 TL - 4,500 TL) to be paid to the cashier upon filing the case for the year 2026—ranges between 5,000 TL and 7,500 TL.

Although these costs must be covered as an advance by the plaintiff at the beginning of the case, the party who is proven right at the end of the lawsuit (the party found less at fault or faultless) ensures, through the court, that all court fees and expenses deposited, trial costs, and the "Counter Attorney Fee" calculated by the state if represented by a lawyer (45,000 TL for the year 2026), are collected from the unjustified losing party. Women in poverty, particularly those without financial means, have the right to gain exemption from all these fee and expense burdens by applying to the Legal Aid institution mentioned above.

In contested divorce cases in Turkey, which have high material and moral weariness, having the procedures, evidence, proof, and rights-seeking strategies regarding the process executed by an expert legal professional holds critical importance in terms of preventing the loss of rights.