

Uncontested Divorce in Turkey



In the Turkish legal system, uncontested divorce in Turkey protocols do not automatically become valid upon submission to the court. Under TCC Article 166/3, the Family Court judge has broad authority to review and intervene in the protocol.

While listening to the parties personally during the hearing to verify their freedom of will, the judge also checks whether the protocol complies with the law, public order, and morality. If the judge detects disproportionate or unfair provisions in the protocol that would victimize the weaker party (usually the economically disadvantaged spouse) or the children, they have the authority (and obligation) to suggest changes to the parties.

For example, if the judge sees that the child support is far from covering the child's educational expenses under current economic conditions (e.g., set at 1,000 TRY per month), they may suggest an increase. If they notice that the visitation days disrupt the child's school routine, they may recommend revising the schedule.

If the parties orally accept these proposed changes in the courtroom and their statements are recorded in the minutes, the divorce is granted based on the revised protocol. However, if either party rejects the judge's proposed correction, the parties' consensus is

deemed broken. In this scenario, the judge dismisses the uncontested divorce request, and the process proceeds under the rules of a contested divorce (with phases of proof and evidence submission). This shows that an **uncontested divorce in Turkey** is not merely an independent contractual transaction free from judicial scrutiny, but a judicial activity intertwined with public order.

Trial Procedure, the Hearing Phase, and Finalization of the Decision

An **uncontested divorce in Turkey** is a technical process that requires procedural steps to be completed in a specific, chronological order. Although it is known as a "single-hearing divorce," critical steps must be taken before and after reaching this hearing.

1. Jurisdiction, Competence, and Filing the Lawsuit

The competent courts for divorce cases are Family Courts. In smaller provincial districts where there is no Family Court, Civil Courts of General Jurisdiction hear these cases acting as Family Courts. According to the TCC, the court with jurisdiction is the court at the domicile of one of the spouses or the court where the spouses last lived together for the six months prior to filing the lawsuit. However, because total consensus is required in **uncontested divorce in Turkey**, "jurisdiction objections" are generally not raised. This allows parties to file a lawsuit in a Family Court anywhere in Turkey, choosing courthouses with lighter workloads to speed up the process.

The litigation process officially begins when the wet-signed divorce protocol, the jointly signed petition, and identity documents are delivered to the Courthouse Distribution Office (Tevzi Bürosu), and the fixed fees and expense advances are paid to the cashier.

2. Hearing Date (Tensip) and the Conduct of the Hearing

When the case file reaches the court, the judge prepares a "Preliminary Proceedings Report" (Tensip Zaptı) and notifies the parties of the hearing date. Depending on the court's workload (especially in metropolises like Istanbul, Ankara, and Izmir), the hearing date can be scheduled 2 to 8 weeks after the case is filed.

Both spouses must be personally present in the courtroom on the scheduled day and time. Following identification, the judge asks the spouses whether they are certain and persistent in their decision to divorce, whether the signatures on the protocol are theirs, and whether they accept the protocol's provisions without any pressure. After the positive answers are recorded in the hearing minutes and signed, the judge concludes the investigation and pronounces the divorce decree verbally (reading the decision to the parties).

3. Reasoned Decision, Waiver of Appeal, and Civil Registry



The judge's verbal declaration of the divorce in the courtroom does not mean the marriage is legally terminated at that moment. A bureaucratic process must be completed before the decision becomes final. After the hearing, the judge prepares a written "Reasoned Decision" (Gerekçeli Karar) that includes the case summary, the protocol, and the legal grounds. The drafting of this text can take 10 to 30 days, depending on the court's workload.

Once written, the reasoned decision is notified to the parties, starting a 2-week (14 days) legal appeal period (İstinaf) for both sides. Parties wishing to expedite their **uncontested divorce in Turkey** submit a petition titled "We Waive the Right to Appeal" to the court

immediately after receiving the reasoned decision. The moment both waiver petitions are entered into the file, the waiting period ends, and the divorce decision becomes final on the same day.

Following finalization, the court's registry office electronically notifies the Civil Registry Office of the final judgment via the National Judicial Network Project (UYAP). The marriage is officially dropped from the civil registry, the parties' marital statuses are updated to "Single," and the woman's surname reverts to her pre-marriage surname (unless the judge rules otherwise).

Cases with Foreign Elements: The Process for Expats and Turkish Citizens Abroad

For foreign residents, refugees, asylum seekers, or Turkish citizens living abroad (expats), the procedure for an **uncontested divorce in Turkey** involves extra challenges and international law rules that must be evaluated within the framework of the International Private and Civil Procedure Law (IPPL/MÖHUK) No. 5718.

Jurisdiction of Turkish Courts and IPPL Rules

For Turkish courts to have jurisdiction over divorce cases involving two foreign nationals or a mixed-nationality couple, the jurisdictional criteria—such as the spouses' joint domicile or habitual residence in Turkey, or the defendant residing in Turkey—must be met. If the parties' marriage was not performed in Turkey but was registered with the relevant authorities (Turkish Consulates or Civil Registry) for recognition in Turkey, a divorce decree must be obtained from a Turkish court to terminate this legal status in Turkey and update the civil records. Divorce decrees obtained from foreign courts have no legal effect within Turkish borders unless a "Recognition and Enforcement" (Tenfiz ve Tanıma) lawsuit is filed and approved in Turkish courts.

Foreign Documents, Translation, and Apostille Requirements

For passports, foreign marriage certificates, birth certificates, or civil registry extracts issued by foreign authorities to be admissible as evidence in Turkish courts, they must bear an Apostille stamp under the Hague Convention. Additionally, all these foreign

official documents must be translated into Turkish by a sworn translator in Turkey and submitted to the court with notary approval.

Language Barrier and the Use of Sworn Translators



If one or both parties do not speak Turkish, it is a legal requirement to have a sworn translator registered with the court's official expert list present in the courtroom. This ensures the parties can answer the judge's questions, understand the claims, and verbally declare their free will during the uncontested divorce hearing. The absence of a translator results in the hearing being postponed and the trial being prolonged.

Waiting Period (Iddah) and the Prohibition of Polygamy

Under Turkish law, a 300-day waiting period (iddah) is mandated for a woman to remarry after a divorce decree becomes final. This period is imposed to prevent confusion regarding the lineage (paternity) of any potential children. Foreign women divorced in Turkish courts are also subject to this rule. However, if the woman obtains an official medical board report confirming that she is not pregnant and submits it to the court, the court can, by order, lift the 300-day waiting period. Furthermore, polygamy is strictly prohibited under Turkish law and public order, constituting a crime under the Turkish

Penal Code; this rule is binding for all foreigners and refugees living in Turkey.

Conversion of Uncontested Divorce to Contested Divorce and the 3-Year De Facto Separation Rule

The process of an **uncontested divorce in Turkey** is a delicate and fragile structure built on the mutual consent and cooperation of the spouses. Disputes that may arise at any stage of the process completely change the nature of the case, transforming it into a "Contested Divorce."

The case converts into a contested divorce in the following primary scenarios:

- **Withdrawal of Consent:** One of the parties unilaterally withdraws their will to divorce or rejects the protocol provisions at any stage before the decision becomes final (including the appeal period after the reasoned decision is notified).
- **Failure to Attend the Hearing:** If one or both spouses fail to appear in court on the scheduled hearing date without a valid excuse, the terms of the agreement are considered violated.
- **Rejection of the Judge's Intervention:** The judge proposes altering a protocol clause, finding it to be against the child's or the weaker party's interests, but the parties (or one party) refuse the change.
- **Lack of Duration Requirement:** The judge determines that the spouses have not yet completed their one-year marriage period when the lawsuit was filed.

If the case turns contested, the parties do not need to file a new lawsuit. The trial continues over the existing court file. However, the procedure changes entirely: parties are given time to submit evidence, such as witness lists, message records, expert reports, and bank statements, to support their claims and defenses. The case is now heard based on fault-finding under TCC Articles 161-166/1-2, and this process can take months or even years.

TCC 166/4: The Three-Year De Facto Separation Presumption

If a case that converted to contested (or was filed as contested initially) is dismissed by the court due to a lack of proof (e.g., the plaintiff fails to prove the defendant's fault), a

special legal waiting period of three (3) years begins from the date this dismissal decision becomes final. If the spouses do not come together during these three years to rebuild their marital union (to establish a joint life), the marriage is legally and practically considered entirely collapsed. Once this three-year de facto separation period expires, in a new lawsuit filed by either spouse, the court must grant a divorce, regardless of fault, without requiring further proof.

The Psychological, Economic, and Judicial Impacts (In-Depth Analysis)

The concept of an **uncontested divorce in Turkey** should be analyzed not merely as a set of legal rules, but as a macro-analytical structure that deeply affects the socio-economic dynamics of society and the functioning of the justice system.

Optimizing the Caseload of the Justice System

The Turkish court system is under an extraordinary caseload, particularly in family disputes. Contested divorce cases—where evidence is collected, pedagogic reports are awaited, and witnesses are heard—consume the time and resources of the courts. The procedure for an **uncontested divorce in Turkey** serves as a "legal relief valve," relieving the system of this heavy workload. By mutual agreement of the parties, the court is relieved of the burden of investigating fault and gathering evidence. In terms of judicial economy, this provides maximum efficiency for the state while offering citizens the opportunity to achieve legal certainty in a very short time, averaging 16 days to 3 months.

Preventing Psychological Damage and the "Zero-Sum Game" Perception



Contested divorce trials are inherently destructive; they rely on a philosophy where one party wins and the other loses (a zero-sum game). Parties submit each other's most private matters into court records to prove their claims. In contrast, the mechanism of an **uncontested divorce in Turkey** builds a rational communication bridge to ensure the healthy continuation of the "co-parenting" relationship while ending the marriage. Resolving custody, alimony, and property division issues amicably sociologically minimizes the risk of children—especially those in developmental stages—being exposed to psychological trauma stemming from parental conflict.

The Function of Formal Requirements in Protecting the "Weaker Party"

The exceedingly strict and specific formal requirements sought by the Supreme Court regarding waivers of property division and alimony in uncontested divorce protocols may seem like bureaucratic rigidity on the surface. Fundamentally, however, they serve as a secondary safety net aimed at protecting the economically or socio-culturally weaker party (mostly women subjected to violence or manipulation). The legal system implicitly

dispenses justice by allowing contracts signed out of ignorance, deceit, or intimidation that contain general clauses (like "I have no claims") to be subject to judicial review again within the 10-year statute of limitations for property division.

The Impact of Macroeconomic Fluctuations on Protocols

The macroeconomic processes and high inflation rates that Turkey is experiencing directly affect the legal architecture of divorce protocols. Setting fixed amounts (e.g., 3,000 TRY per month) for child or spousal support results in the rapid erosion of the money's real purchasing power, dragging the custodial party into economic bottlenecks. Therefore, in modern practices of **uncontested divorce in Turkey**, adding "inflation adjustment clauses" that ensure the alimony amount is automatically increased annually based on TÜİK data (PPI/CPI rates) has ceased to be a mere legal preference and has become a vital necessity.

Costs, Litigation Expenses, and the Crucial Role of Legal Representation

The total cost of filing for an **uncontested divorce in Turkey** is highly predictable, economical, and less burdensome than in contested cases. Litigation costs primarily consist of the following items:

- **Court Fees and Expense Advance:** At the opening of the case, fixed application fees, advance fees, and expense advances covering notification costs—calculated over the Ministry of Justice tariff—are deposited into the court's cashier. If these expenses are underpaid, the trial process slows down.
- **Translation and Notary Expenses:** Notary sworn translation, legalization, and Apostille processes for foreign documents, as well as the fees for the sworn translator who will be present at the hearing, create extra costs in international cases.
- **Attorney (Proxy) Fees:** Provided they are not below the minimum base wage determined under the "Minimum Attorney Fee Tariff" (AAÜT) published by the Union of Turkish Bar Associations, attorney fees are freely determined between the parties and the attorney based on the scope of the file (complexity of the property regime, foreign elements, etc.).

The Function of an Expert Lawyer: The procedure for an **uncontested divorce in Turkey** is not a simple administrative transaction that can be handled with draft documents downloaded from the internet. Such an attempt usually results in irreversible loss of rights in the future. A family law lawyer acts not merely as a proxy who opens the case, but as a comprehensive "Risk Manager."

The primary duty of the lawyer is to conduct a fair analysis of the parties' assets, draft the protocol in a precise and enforceable manner without misinterpretation, minimize recognition and enforcement risks in foreign countries, and flawlessly execute procedural operations in court to ensure the decision is issued in a single hearing and finalized rapidly. In a system so technical, bearing heavy financial consequences, and governed by international rules, obtaining legal counsel is the most rational approach to long-term security.