

## **Marriage and Divorce in Turkey**

### **Questions and Answers for Asylum Seekers**

#### **I am seeking protection in Turkey. Can I marry in Turkey?**

International protection applicants, international protection status holders and persons under temporary protection have the right to marry in Turkey if they have completed their registration with the General Directorate for Migration Management. Marriage and all other related proceedings are subject to the Turkish Civil Code and other applicable legislation.

#### **What is a civil marriage?**

An official or civil marriage is a form of marriage which must be performed by legally designated officials in accordance with the law. Please be aware that although religious or customary marriage ceremonies are allowed in Turkey, they are not legally binding.

#### **What are the conditions for civil marriages in Turkey?**

In Turkey, a marriage ceremony can be performed between a freely and fully consenting man and woman. Persons wishing to marry must be single at the time they apply for the marriage. In Turkey, the legal age for marriage is 18. Persons who have turned 17 can marry when there is parental consent or an approval of their legal guardians; under exceptional circumstances, persons who turned 16 may be granted a permission to marry by the court.

In addition, persons wishing to marry must have “legal capacity.” Under Turkish Civil Code, persons lack “legal capacity” if they are yet to attain the age of majority or lack the ability to discern (i.e. the ability to act rationally and distinguish right from wrong) as a result of a mental illness, weakness of mind, intoxication or of other similar reasons. In this connection, it is important to emphasize that a mental illness does not necessarily constitute a barrier to the marriage in and of itself. In other words, for a mental illness to prevent marriage, it must significantly affect the ability to discern. Thus, persons struggling with a mental illness are also entitled to the right to marry by obtaining an official health report which shows that it is not a medical impediment.

Under Turkish law, close kinship is another barrier to marriage. A marriage between immediate family members, between some close relatives (aunts and uncles cannot marry their nieces or nephews, or ex-spouses cannot marry each other’s parents or children), and between an adoptee and an adopted person (and each other’s ex-spouses or children) are all prohibited.

#### **I meet the above conditions and want to marry in Turkey. Where should I apply?**

Persons wishing to marry in Turkey should apply to Marriage Departments under municipalities in the province where one of the persons wishing to marry is registered. Both persons must be present at the time of application.

#### **Which documents are required for application? Where can I obtain these documents?**

The safest way is to approach the Marriage Department and ask for a full list of required documents. However, you will typically be required to present the following: the petition of marriage, identity documents, health reports, passport-size photographs, and the certificate of celibacy. If you have an official document issued by the authorities of your country of origin showing your civil status, it is important to present this document as well. However, persons who do not have such documents may apply to the Provincial Directorate for Migration Management and obtain a certificate of celibacy.

Please also make sure you have an official identity document issued by the General Directorate for Migration Management at the time of application.

### **Which forms of marriage are legally binding in Turkey? Who can perform a marriage ceremony in Turkey?**

As stated above, only a civil marriage performed in accordance with the law and by legally designated officials are valid in Turkey.

### **I am already married in my country of origin. Is this marriage considered valid in Turkey?**

Yes, your civil status which you acquired in your country of origin is considered valid in Turkey. That is, if your marriage is officially recognized in your country of origin, it will also be valid in Turkey.

### **I married in Turkey. Should I notify the authorities?**

All changes in your civil status must be notified to the Population and Civil Registry Department and Provincial Directorate for Migration Management within 20 work days.

### **There is an entry error on my civil status in the identity document issued to me by the General Directorate for Migration Management. What should I do for correction?**

For all entry errors in your identity document, you must apply to the Provincial Directorate for Migration Management. If you have a document in proof of your civil status, please also present this document at the time of application.

### **How can I register my new born?**

For birth registration, you should apply to the Population and Civil Registry Department latest within 30 days after the birth. Please be aware that there is no difference between a birth in marriage and a birth outside of marriage, and this shall have no adverse effect on either the child or on either of the parents.

If the birth has taken place in a health institution, officials of this institution may also notify the birth to the relevant authorities. But it is still important to make sure that the notification has been duly made. However, if the birth has taken place in another setting, you may also make the notification based on your oral statement. In such cases, authorities have the right to initiate an investigation to verify your statement. In addition, it is important to register your newborn with the Provincial Directorate for Migration Management.

### **I want to file for divorce. What should I do?**

In Turkey, a dissolution of a marriage can only be decided by the court. If you want to file for divorce, you should apply to the relevant competent court and submit a

divorce petition. Benefiting from the assistance of a lawyer can be highly critical in this procedure. Please be aware that in addition to court fees, if you would like to receive legal assistance or counselling from a lawyer, you will be required to pay a lawyer's fee.

However, if you are unable to afford a lawyer's fee, you may approach to the bar association in the province where you are registered and request legal aid. A bar association is the professional public body of lawyers. Under each bar association, there is a Legal Aid Bureau established to provide legal aid and assistance services to persons who cannot afford lawyer and court fees. All persons seeking international protection, persons having an international protection status, persons under temporary protection as well as stateless individuals are entitled to benefit from the services of Legal Aid Bureaus in Turkey. You are however required to make an application and provide several documents explaining and/or in proof of your demand. For a detailed information, please contact the local bar association in the province where you are registered.

### **I married outside of Turkey. Can I still file for divorce in Turkey?**

Yes, you can file for divorce in Turkey even if you have married in your country of origin. However, please be aware that divorce procedures will be subject to Turkish law.

### **My spouse is not in Turkey. Can I file for divorce?**

You may still file for divorce from an absent spouse; however, as a general rule, it is a must for both parties to participate in divorce proceedings. The absence of your spouse will therefore lead to delays in the divorce being finalized.

### **Who will get the custody of my child or of my children after divorce?**

In Turkey, only a judge has the legal authority to decide on the custody of a child after a divorce. The judge will therefore either order joint custody or award sole custody to one of the parents.

### **I am already divorced. Should I notify the authorities?**

Since this is also a change in your civil status, as stated above, you should notify this change to the Population and Civil Registry Department and Provincial Directorate for Migration Management within 20 work days.

### **I am divorced. Can I re-marry?**

Persons can re-marry after divorce. However, please remember that there is a 300-days enforced waiting period requirement for women whose marriage has been dissolved for any reason, and that this mandatory waiting period will not be imposed if a woman can produce a medical report showing that she is not pregnant. There is no such waiting period requirement for men.