

**GREEK LEGISLATION**

**GREEK CIVIL CODE<sup>1</sup>**

*Chapter VII (Divorce)*

**Article 1438**

A marriage can be dissolved by divorce. The divorce shall be pronounced by a final Court judgement when there is a concurrence of the preconditions determined in the following sections.

**Article 1439**

Each of the spouses may demand a divorce where their relationship has been so strongly impaired on a ground imputable to the person of the defendant (petitioner) or also to both spouses that the continuation of the conjugal relationship became justifiably unbearable for the plaintiff (respondent).

To the extent that the defendant (petitioner) does not adduce proof to the contrary impairment shall be presumed in case of bigamy or adultery of the defendant abandonment of the plaintiff or plotting against the plaintiff's life by the defendant.

Where the spouses have been in dissension continually for at least four years the presumption of impairment shall not admit of proof to the contrary and a divorce may be demanded even if the ground of impairment is imputable to the person of the plaintiff. The completion of the time period of dissension shall not be prevented by small interruptions that occurred as attempts for restoring relation between the spouses.

**Article 1440**

Each of the spouses may demand a divorce by reason of an officially declared absence of the other.

<sup>1</sup> See TALIADOROS, Greek Civil Code. Athens/Komotini 2000.

**Article 1441**

When the spouses agree to divorce they may demand the divorce by a joint request which is prosecuted in accordance with the procedure pertaining to voluntary jurisdiction (consensual divorce).

In order that a consensual divorce may be granted the marriage must have lasted at least one year before the filing of the request and the agreement of the spouses must be declared in Court by them personally or by a specially authorized representative (attorney at law) in the course of two hearings distant from each other by six months at least. The special power of attorney must have been given within the last month before each hearing. Where two years have been elapsed since the first hearing the declared agreement of the spouses shall cease to be effective.

If there are minor children in order that the divorce may be granted a written agreement of the spouses must be submitted regulating the guardianship of the children and the personal contacts with them. Such agreement shall be confirmed by the court and remain in force until a decision has been given in this matter pursuant to the provisions of Article 1513.

**Article 1442**

To the extent that one of the former spouses cannot secure his maintenance from his income or from his property he shall have the right to claim maintenance from the other:

1.If at the pronouncement of the divorce or at the end of the time periods referred to in the cases described hereunder he is of an age or in a health condition that does not allow him to be compelled to begin or to continue the carrying out of a proper profession that would secure for him his maintenance.

2. If he is in a charge of the guardianship of a minor child and for this reason is prevented from carrying out a proper profession.

3.If he cannot find stable and appropriate employment or if he needs some kind of professional training but in both cases for a time period that may not exceed three years as from the pronouncement of the divorce.

4. In any other case where the judicial awarding of maintenance is called for reasons of leniency.

**Article 1443**

The provisions of articles 1487, 1493, 1494 and 1498 shall be applicable by analogy also in regard to maintenance after divorce. The maintenance is payable in advance in money every month. The maintenance may be paid in one lump sum payment if the former spouses so agree in writing or according to the decision of the court where particular reasons justify such judgement.

**Article 1444**

Maintenance may be excluded or be limited where this is called for on serious grounds especially if the marriage had existed for a short time period or if the spouse entitled thereto has caused the divorce by his fault or has voluntarily brought about his indigence.

The right of maintenance shall cease if the ex-spouse entitled thereto re-marries or if he has cohabits permanently with somebody else in a free union. The right of maintenance does not cease with the demise of the responsible ex-spouse but it ceases with the demise of the ex-spouse entitled thereto except if it concerns past periods or installments due at the time of the demise.

**Article 1445**

Each of the ex-spouses shall be under the obligation to furnish to the other accurate information about his property and income to the extent that such information is useful for determining the amount of maintenance. At the request of one of the ex-spouses which is transmitted through the intermediary of the competent public prosecutor the employer the competent service department and the competent fiscal authority shall be under an obligation to furnish any useful information about the state of property of the other ex-spouse and more particular about his income.

**Article 1446**

The provisions of Article 1416 shall also be applicable as regards the dissolution of a marriage pursuant to the provisions of this chapter.

### **Applicable Provisions**

#### **Article 1416**

Subject to a different determination the provisions of this chapter (Relations between spouses) shall be applicable independently of the religion or confession to which the two spouses belong as well as of the form whether civil or religious under which their marriage was celebrated.

#### **Article 1487**

Shall not be under an obligation to provide maintenance a person who taking also into consideration his other obligations is not in a position to furnish such maintenance without endangering his own conservation. This rule shall not apply in the matter of maintenance of a child under age claimable from his parent except if the child may direct its claim to against some other obligor or if the child can maintain itself from its property.

#### **Article 1492**

Where there are several beneficiaries entitled to maintenance if the obligor's means do not suffice to meet the claims of all shall have precedence the descendants in their rank of succession in an intestacy...With regard to the right of maintenance of a spouse he shall placed on the same rank as the children under age and shall have precedence over other descendants or relatives..

#### **Article 1493**

The extent of maintenance shall be determined having regard to the needs of the beneficiary such as they arise from his living conditions (appropriate maintenance).Maintenance shall comprise all that is necessary for the upkeep of the beneficiary and further the expense required for his upbringing as well as expenses for his professional and general education.

**Article 1494**

Where a change in the conditions of maintenance has intervened since the court decision determining the maintenance was issued the court may amend its decision or even order the cessation of the maintenance.

**Article 1498**

Past maintenance shall only be due as from the time the obligor was put on notice.