

## Divorce

If a marriage is deeply disrupted and cannot be expected to get better, the marriage may be divorced in the Czech Republic. However, the divorce may not go against the interests of minors. The Marriage is divorced by the locally competent court (usually a district court). The following text “Divorce” describes three alternatives of a divorce.

Before the marriage is divorced, the issue of subsequent care of minors must be settled. The court must arrange the relations to minors after a divorce, regardless of the form of divorce. A separate petition must be filed with the court, which will be dealt with in separate proceedings. Section 24(2) stipulates that if a married couple has minor children, **the marriage may not be divorced if it is in conflict with the minors’ interests given by special reasons** (special reasons may include, in particular: the child’s health status, if the divorce might deteriorate the quality of health care).

### How much does a divorce cost?

In case of a “concerted” divorce agreed upon by the husband and wife without disputes, only the administrative fees and the duty stamp is paid. In case of a difficult divorce and if the married couple is unable to reach an agreement, the costs may rise to tens of thousands Czech crowns; the divorce proceedings may take several years and be very hard on both the husband and wife, but primarily on the children.

### Concerted Divorce

If both spouses wish to be divorced and reach an agreement, the marriage may be **divorced under an agreement** on divorce concluded **by the husband and the wife**. Under Section 24a of the Family Act, a marriage having lasted at least a year may be divorced in such a way if the conjoints do not live together for more than six months.

Once an agreement settling the property issues after the divorce has been concluded (featuring an officially verified signature of the married couple) and once a legitimate court decision approving the parents’ agreement arranging the relation to minors after the divorce (Section 26), **the application for divorce may be filed with the court**. If the second partner joint the application and if all the other statutory conditions have been met, **the court will divorce the marriage**.

The joint application for the divorce (the agreement may be compiled by the married couple alone or with the assistance of a lawyer) must clearly indicate the following:

- ◆ the agreement is concluded for the period **after the ruling becomes legally effective** (the “deferring clause”). An agreement without this clause is invalid; for instance, the joint property of the married couple cannot be settled without a divorce. If the agreement provides for a transfer of real estate, the effect of the agreement is subject to registration with the Real Estate Register.
- ◆ the agreement **must settle the mutual property relations** of the husband and wife. The agreement will specify what items will be owned by the husband and the wife, the settlement of liabilities to third parties, the settlement of potential liabilities between the husband and the wife (e.g. a monetary amount payable from the joint account to both partners or payable by one partner from his/her property to the other partner); the issues of tenancy should also be provided for. The agreement may also provide for alimony duties of one partner towards the other (the amount, the intervals and the duration of the payments)

- ◆ the agreement is confirmed by **signatures of the husband and wife (verified by a notary or a registrar)**, the place and date of the conclusion must be specified. The agreement should conclude with a joint declaration that the partners have no further claims and liabilities towards each other.
- ◆ the agreement must feature a **legally effective court decision** approving the agreement **on the relations to minors after the divorce**. The agreement may not be approved and the marriage divorced without the relations to children having been arranged for.

### **Standard (Common) and Difficult Divorce**

#### **Procedure:**

The divorce petition is filed with the competent court in three copies. The petitioner must present copies of the documents referred to in the petition. The court will decide in the matter by awarding a ruling on divorce (after hearing the parents and the child's custodian named especially for these proceedings – usually the child care authority, resulting in a court decision on the relations to minors after the divorce).

#### **Standard (Common) Divorce:**

In case of a **“standard” divorce** under Section 24(1), the court may divorce the marriage on the basis of a petition by any of the partners, provided that the marriage is deeply and permanently disrupted and the resumption of marriage co-existence cannot be expected. In adopting its decision, the court assesses the reasons and the extent of the disruption within the divorce proceedings. This is not pleasant for any of the partners; the court often investigates private issues, hears witnesses, assesses evidence etc., and the divorce takes longer than the “concerted” divorce.

#### **Difficult Divorce:**

In case one of the partners does not agree with the divorce petition, not having contributed to the disruption by breaching his/her marital obligations and having suffered severe damage due to the divorce, the court may proceed in compliance with Section 24b of the Family Act and reject the petition if some extraordinary circumstances lead the court to preserve the marriage.

The Act does not detail “extraordinary circumstances in support of the marriage”; nevertheless, these may include health problems of one of the partners or a difficult social situation that might be aggravated by the divorce.

**If the spouses do not live with each other for more than three years, the court will approve the divorce** (based on a petition by one of the spouses) **if all the conditions under Section 24 of the Family Act have been met**. The court will proceed as if it were a “standard” divorce (Section 24b(2) of the Family Act).