



29 February 2024

Danish National ID Centre

Birkerød Kongevej 2
DK-3460 Birkerød
Denmark

Phone +45 61 98 39 00
Email nidc@nidc.dk
Website www.nidc.dk

Vietnam: Issuance procedure of Vietnamese divorce decrees

Introduction

The following note describes the divorce procedure and the related issuance of divorce decrees in Vietnam. For information on marriage certificates, see the note "*Vietnam: Marriage registration and Vietnamese marriage certificates*".

This note is primarily based on a hearing statement from the Supreme People's Court of Vietnam following a mission to Hanoi in April 2023 as well as open source information.

The judicial system in Vietnam and legislative framework

The judicial system of Vietnam consists of the following five types of courts: District People's Court, Provincial People's Court, High People's Court and Supreme People's Court as well as a Military Court. The District People's Court is the lowest in the hierarchy of the five courts, while the Supreme People's Court is the highest.¹

Divorces in Vietnam are carried out in accordance with the Law on Family and Marriage of 2014, chapter 4, section 1, as well as the Civil Code, the Civil Procedure Code and other relevant legal provisions.²

A marriage can only be dissolved by The People's Court in Vietnam.³

Divorce proceedings

There are two forms of divorce proceedings in Vietnam: unilateral divorce and consensual divorce. When only one of the spouses submits his/her petition to the court it is called a unilateral divorce. If both spouses agree to file their petition to the court, it is called a consensual divorce.⁴

According to Art. 51 of the Law on Family and Marriage, both husband and wife can petition for divorce at the court.⁵ However, a husband has no right to petition for a

¹ The Supreme People's Court of the Socialist Republic of Vietnam A, year of issue n/a.

² The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

³ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

⁴ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

⁵ Law on Family and Marriage, 19 June 2014.

divorce when his wife is pregnant, just gave birth or nurses a child under the age of one year.⁶

In case one of the spouses is a victim of domestic violence from the other spouse or one suffers from serious mental illness, a parent or other relative may petition a court to settle a divorce.⁷

Marriages can be dissolved by a court in the district where the spouse(s) live. In case of a consensual divorce, the parties can file their petition to a court, where one of the spouses or both spouses live. In case a spouse seeks to petition for a unilateral divorce, he/she should file a petition for divorce at the District People's Court where the other spouse lives.⁸

The spouses are not allowed to authorise others to participate in the divorce proceedings on their behalf, unless one of the involved parties suffers from serious mental illness or is a victim of domestic violence.⁹

If the case is a consensual divorce, both parties must be present during the proceedings. If the case is a unilateral divorce, and the defendant is not present at court after having been summoned twice, the court will proceed with the divorce trial in his/her absence.¹⁰

In general, the divorce proceedings include the following steps:

- The spouse(s) file(s) for divorce at the competent People's Court;
- The court issues a notice of acceptance of the divorce petition and the divorce court fee is paid in advance by the spouse(s);
- The court conducts divorce mediation to reunite the spouses;
- If the mediation fails, a court session is opened to settle the divorce petition.¹¹

The court is obliged to settle the divorce case and issue a court judgment within six months.¹²

However, in case of a consensual divorce, the court will issue a decision on recognising the divorce by mutual consent within seven days after an unsuccessful mediation session.¹³

⁶ Law on Family and Marriage, 19 June 2014.

⁷ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

⁸ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

⁹ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹⁰ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹¹ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹² The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹³ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

Therefore, according to the above, it is not in every divorce settlement case that a divorce judgment will be issued. However, a court's decision to recognise the involved parties' agreement on divorce has the same legal validity as an effective divorce judgment.¹⁴

A marriage will be legally dissolved from the date the court has made a divorce judgment or decision.¹⁵

The divorce judgment or decision must be signed by the judge of the court and stamped by the court where the divorce case was settled.¹⁶

Reissuance

Divorce records are kept by the courts where they were issued.¹⁷

Reissuance of divorce decrees is not possible. However, extracts can be issued. The involved parties have the right to request a copy of the divorce decree by contacting the competent People's Court. When applying for a certified copy of the divorce judgement or decision, a copy of the applicant's ID along with the relevant application form must be submitted.¹⁸

The divorce decree must be stamped with a certified true copy stamp and with the seal of the court where the divorce decree was issued.¹⁹

Divorce appeal

Either party can appeal all or part of the divorce judgment of the first-instance Court. The time limit for appeal against the divorce judgment of the first-instance Court is 15 days from the date of judgment pronouncement.²⁰

¹⁴ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹⁵ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹⁶ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹⁷ U.S. Department of State, year of issue n/a.

¹⁸ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

¹⁹ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

²⁰ The Supreme People's Court of the Socialist Republic of Vietnam B, 19 April 2023.

References

Written sources

Law on Family and Marriage (19 June 2014): <https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11018&Keyword=family>, retrieved 3 July 2023.

The Supreme People's Court of the Socialist Republic of Vietnam A, (year of issue not available): Functions, duties and jurisdiction of People's Court, <https://www.toaan.gov.vn/webcenter/portal/spc/home>, retrieved 3 July 2023.

The Supreme People's Court of the Socialist Republic of Vietnam B, (19 April 2023): Hearing statement from Deputy Director of the International Cooperation Department, the Supreme People's Court of the Socialist Republic of Vietnam, received 19 April 2023.

U.S. Department of State – Bureau of Consular Affairs (year of issue not available): Vietnam – Reciprocity Schedule, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/VietNam.html>, retrieved 3 July 2023.