

# TABLE OF CONTENTS

<b>PREFACE</b>	<b>9</b>
<b>RECOGNITION AND ENFORCEMENT OF FOREIGN DIVORCE DECISIONS IN TURKEY</b>	<b>11</b>
<i>Prof. Dr. Zeynep Derya Tarman</i>	
1 INTRODUCTION	11
2 LEGAL SOURCES REGULATING RECOGNITION AND ENFORCEMENT IN TURKEY	12
3 INTERNATIONAL CONVENTIONS	12
4 RECOGNITION AND ENFORCEMENT UNDER THE PIL CODE	15
4.1 The distinction between recognition and enforcement under Turkish law	15
4.2 Prerequisites for recognition and enforcement (Art. 50 of the PIL Code)	15
4.2.1 <i>The foreign decision shall be pertaining to a civil or commercial                 matter</i>	16
4.2.2 <i>The decision shall be rendered by a state court</i>	16
4.2.3 <i>The decision must be final</i>	16
4.3 Conditions of recognition and enforcement	17
4.3.1 <i>Reciprocity</i>	18
4.3.2 <i>Exclusive jurisdiction</i>	19
4.3.3 <i>Exorbitant jurisdiction</i>	19
4.3.4 <i>Public policy</i>	20
4.3.5 <i>Procedural rights of the defendant</i>	25
4.4 Procedure for recognition and enforcement before Turkish courts	26
4.4.1 <i>Local jurisdiction of Turkish courts</i>	26
4.4.2 <i>Legal interest</i>	27
4.4.3 <i>Petition</i>	27
4.4.4 <i>Court fees and expenses</i>	29
4.4.5 <i>The limitation period</i>	30

## RECENT DEVELOPMENTS IN TURKISH FAMILY LAW

5	RECOGNITION UNDER ARTICLE 27/A OF THE LAW ON CIVIL REGISTRY SERVICES	31
5.1	Conditions for recognition	31
5.2	Procedure for recognition	32

## THE ROLE OF FAULT IN DIVORCE PROCEEDINGS IN TURKISH FAMILY LAW 35

*Dr. Özgün Çelebi*

1	INTRODUCTION	35
2	THE ROLE OF FAULT IN THE GROUNDS FOR DIVORCE	37
3	THE ROLE OF FAULT IN THE MATERIAL CONSEQUENCES OF DIVORCE	44
3.1	Liquidation of the matrimonial regime	44
3.2	Inheritance rights of the surviving spouse	45
3.3	Compensation for material and moral damages	47
3.4	Post-divorce alimony	49
4	CONCLUSION	50

## DISSOLUTION OF THE MATRIMONIAL REGIME OF PARTICIPATION IN THE ACQUISITION IN TURKISH LAW 53

*Dr. Hanswerner Odendahl*

1	PRELIMINARY REMARKS	53
2	INTRODUCTION	54
2.1	The development of Turkish matrimonial property law	54
2.2	The main features of the regime of participation in the acquisition	55
2.2.1	<i>General</i>	55
2.2.2	<i>Main difference with the German community of gains: the allocation of the cyclical increase or decrease in value</i>	61
2.2.3	<i>The marriage-related contribution</i>	63
2.2.4	<i>The return on personal assets as acquisition</i>	64
3	THE ADOPTION OF PARTICIPATION IN THE ACQUISITION IN TURKEY	64
3.1	By the legislator	64
3.2	Through jurisprudence and jurisdiction	65
3.2.1	<i>Individual dissolution and debts</i>	65
3.2.2	<i>Implementation to resolve the conflict situation between the spouses</i>	68
4	CONSEQUENCES	69

<b>THE SURNAME OF WOMEN AND CHILDREN IN TURKISH LAW</b>	<b>71</b>
<i>Dr. Yasin Alperen Kardeşahin</i>	
1 INTRODUCTION	71
2 OVERVIEW OF THE RELEVANT SOURCES OF LAW	71
3 THE SURNAME OF WOMEN	73
3.1 The surname of women after marriage	73
3.2 The surname of women after the death of their husband	77
3.3 The surname of women after divorce	78
4 THE SURNAME OF CHILDREN	80
4.1 Acquisition of the surname by birth	80
4.2 Change of the surname of children	83
4.2.1 <i>Change of the surname by court order in general</i>	83
4.2.2 <i>Change of the child's surname by court order after the parents' divorce</i>	84
4.2.3 <i>Change of the child's surname by court order in other cases</i>	87
5 CONCLUSION	88
<b>JOINT CUSTODY AFTER DIVORCE: NO LONGER A TABOO FOR TURKISH COURTS</b>	<b>91</b>
<i>Dr. Işık Öney</i>	
1 INTRODUCTION	91
2 HOW DO TURKISH COURTS DEAL WITH FOREIGN LAWS ALLOWING JOINT CUSTODY AFTER DIVORCE?	91
2.1 Overuse of the public order exception until 2017	92
2.2 The tipping point: the C.L.B. decision	94
3 JOINT CUSTODY UNDER TURKISH LAW	97
3.1 Relevant provisions of the Turkish Civil Code	97
3.2 The traditional approach	99
3.3 The liberal approach	100
3.4 Recent case law	101
4 CONCLUDING REMARKS	102