

Comparative Table: Marriage and Family

| List of abbreviations | | Notes |
|------------------------|----|---|
| | | |
| Catholics | C | |
| Jehovah's Witnesses | JW | |
| Jews | J | |
| Muslims | M | This category includes both Sunni and Shia Muslims. |
| Orthodox Christians | OC | |
| Protestants | P | |
| Religious minority | RM | |
| Religious organization | RO | |

Question

1. From a legal perspective, what types of marriage celebrations are legally binding (or are foreseen) in your country?

A) It is compulsory to perform a civil marriage.

B) It is possible to perform a marriage according to the rites of a religion, which has the same legal validity of a civil marriage.

C) It is possible to perform a religious marriage according to the rites of a religion, which has the same legal validity of a civil marriage if certain conditions established by state law are respected.

| Croatia | Cyprus | France | Algeria | Türkiye |
|---------|--------|--------|---------|---------|
| C) | C) | A) | A) (1) | A (2) |

(1) It should be noted that civil marriage respects the requirements of a Muslim marriage.

(2) Türkiye adopted the Swiss civil code in 1926 and revised it in 2002. Civil marriage is not modeled upon Muslim marriage.

Question

1.1. If the answer to question 1 is A), is it compulsory to celebrate a civil marriage before the marriage celebrated according to the rites of a religion?

| Croatia | Cyprus | France | Algeria | Türkiye |
|---------|--------|--------|---------|---------|
| N/A | N/A | Yes | Yes | Yes |

| Question | | | | |
|--|--|--------|---------|---------|
| 1.2. If the answer to question 1 is B) or C), can these marriages be performed by the following RMs? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| JW: no J: yes M: yes OC: yes P: yes (3) | C: yes JW: yes J: no M: yes P: yes (4) | N/A | N/A | N/A |

(3) Religious marriages can be celebrated only by RMs having an agreement signed with the state, where it is stipulated that these can obtain civil effects.

(4) Religious marriages can be celebrated only by RMs recognized as "religious groups" under Art. 2 const. or "whose doctrines or rites are not secret" under Art. 18(2) const.

Question

2. If the answer to question 1 is B) or C), do ministers of worship need a state authorization to perform the marriage?

| Croatia | Cyprus | France | Algeria | Türkiye |
|----------------|---------------|---------------|----------------|----------------|
| No | Yes | N/A | N/A | N/A |

| Question | | | | |
|---|---|--------|---------|---------|
| 2.1. If the answer to question 2 is yes, what are the RMs whose ministers of worship require a state authorization? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| N/A | C: no JW: yes J: N/A M: no P: yes (5) | N/A | N/A | N/A |

(5) Ministers of worship of RMs "whose doctrines or rites are not secret" under Art. 18(2) const. require a state authorization.

Question

3. If the answer to question 1 is C), do these conditions prevent the celebration of

A) a polygamous marriage?

B) a marriage between individuals who have reached marriageable age according to their religion but are underage based on state law?

C) a gender-neutral marriage?

| Croatia | Cyprus | France | Algeria | Türkiye |
|----------------------------|----------------------------|--------|---------|---------|
| A) Yes B) Yes C) Yes | A) Yes B) Yes C) Yes | N/A | N/A | N/A |

Question

4. If the answer to question 1 is B) or C), what is the legal system in force concerning the decree of dissolution/annulment of a religious marriage with civil effects?

A) The decree can be issued only by the state authority.

B) The decree can be issued only by the RM authority.

C) The decree can be issued by the RM authority, but must be validated by the state authority in order to have legal effects also for the state.

| Croatia | Cyprus | France | Algeria | Türkiye |
|---------|--------|--------|---------|---------|
| A) (6) | A) | N/A | N/A | N/A |

(6) This system only applies to RMs. The system C) applies to the Catholic Church (the majority RO) according to Art. 13(4) of the Agreement between the Holy See and the Republic of Croatia concerning Legal Questions, despite inconsistent case law.

Question

5. How is inheritance regulated in your country?

- A) It is regulated by state law independently from the religious affiliation of the interested party.
- B) It is regulated by state law(s) according to the religious affiliation of the interested party.
- C) The interested party can decide whether inheritance is to be regulated under A) or B).

| Croatia | Cyprus | France | Algeria | Türkiye |
|---------|--------|--------|---------|---------|
| A) | A) | A) | A) (7) | A) |

(7) Inheritance is regulated by state law, but this is influenced by Islamic law. For example, a non-Muslim cannot inherit from a Muslim.

| Question | | | | |
|--|---------------|---------------|----------------|----------------|
| 5.1. If the answer to question 5 is A), are there instances when the religious rules concerning inheritance are prevented from acquiring validity in the state legal system? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| Yes (8) | Yes (8) | Yes (8) | Yes (9) | Yes (8) |

(8) Yes, if the religious rules are in conflict with civil rules (for example different inheritance quotas for men and women).

(9) All religious rules other than Islamic rules cannot acquire civil effects based on the State legal system.

Question

6. How is dowry regulated in your country?

A) It is regulated by state law.

B) It is regulated by religious law.

C) The interested party can decide whether dowry is to be regulated by state law or religious law.

D) None of the above.

| Croatia | Cyprus | France | Algeria | Türkiye |
|---------|--------|--------|---------|---------|
| D) | A) | D) | A) | D) |

| Question | | | | |
|--|---------------|---------------|----------------|----------------|
| 6.1. If the answer to question 6 is A), are there instances when state law prevents religious rules concerning dowry from being implemented in the state legal system? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| N/A | Yes (10) | N/A | No | N/A |

(10) Dowry agreements are considered to be invalid by Section 26A of Contract Law, Cap. 149.

| Question | | | | |
|---|--|---|----------------------|----------------|
| 7. Becoming part of a religious community is frequently characterized by the celebration of rites (e.g. baptism, circumcision, etc.). Does state law place any obstacle to performing the rites of the following RMs? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| JW: no J: no M: no OC: no P: no | C: no JW: no J: no M: no P: no | JW: no J: no M: no OC: no P: no | C: no P: yes (11) | C: no P: no |

(11) It should be noted that members of the Catholic Church perform baptism secretly. This is why the State cannot place any obstacles to performing it.

| Question | | | | |
|--|---------------|---------------|----------------|----------------|
| 8. Is religion a relevant element when courts choose the spouse to whom children are to be entrusted in case of dissolution of marriage? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| No (12) | No (12) | No (12) | Yes | No (12) |

(12) No, as a rule. In some cases religion is a relevant element, but what matters is not the doctrine, but the practice or set of practices regarded as harming the child's physical and/or mental wellbeing.

| Question | | | | |
|---|--------|--------|-------------------------------|---------|
| 8.1. If the answer to question 8 is yes, does case law show some bias in favour or against the following RMs? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| N/A | N/A | N/A | C: against P: against (13) | N/A |

(13) Under the Algerian family law, children have to be educated in their father's religion (that is, Sunni islam). The family code gives the right of custody of the child to the mother as a priority but when the mother is Christian (especially if she converted from Islam), she loses the custody.

| Question | | | | |
|---|---------|---------|---------|---------|
| 9. RMs may have some rules concerning medical treatments that are to be respected by their members. Are parents belonging to an RM entitled to have these rules respected by the public healthcare institutions where their children are treated? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| No (14) | No (14) | No (14) | No (15) | No (14) |

(14) No, if the rules endanger the child's life, as it can be the case with parents withholding blood transfusion from their children.

(15) It should be noted that this issue is not relevant in Algeria.

| Question | | | | |
|---|---------------|---------------|----------------|----------------|
| 10. Is religion a relevant element when courts have to make decisions regarding a child's adoptive parents? | | | | |
| Croatia | Cyprus | France | Algeria | Türkiye |
| No (16) | No (16) | No (16) | N/A (17) | No (16) |

(16) No, as a rule. In some cases religion is a relevant element, when it is a component of the best interest of the child.

(17) Adoption is prohibited. The only way to educate a non-biological child is through kafalah, which is an institution open only to Muslims.