

**CIVIL COURTS  
(FAMILY SECTION)**

**MADAM JUSTICE  
JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)**

**Hearing of the 12th January 2023**

**Application no.: 522/2022**

**Case no.: 22**

**BK  
And  
KK**

**The Court:**

Having seen the joint application filed by BK and KK dated the 30th of September 2022, (vide English translation at page 17), wherein it was held:

- 1. They contracted their marriage on the twenty third (23<sup>rd</sup>) day of March of the year two thousand and seven (2007) in Heidelberg, Germany;*
- 2. From their marriage, the parties' son, JK was born on X in H, G.;*
- 3. They regulated the patrimonial aspect of their marriage together with matters relating to the custody of their minor son JK through a 'Deed of Family Arrangement' dated the seventh (7<sup>th</sup>) day of December of the year two thousand and twelve (2012), an authenticated copy of which is being herewith attached and marked as Document 'A';*
- 4. They further regulated the patrimonial aspect of their marriage through a 'Deed of Family Arrangement' dated the twenty fifth (25<sup>th</sup>) day of April of the year two*

*thousand and fourteen (2014), an authenticated copy of which is being herewith attached and marked as Document 'B';*

5. *They established their residence in Malta in the year two thousand and sixteen (2016);*
6. *They separated personally in virtue of a 'Deed of Personal Separation' in the records of Notary Margaret Heywood dated the third (3<sup>rd</sup>) day of July of the year two thousand and twenty (2020), an authenticated copy of which is being herewith attached and marked as Document 'C';*
7. *As of today, the parties lived apart for a period exceeding three (3) years;*
8. *There exist no reasonable prospect of reconciliation between the spouses;*
9. *With respect to maintenance, applicants declare that KK and JK are receiving adequate maintenance in terms of the aforementioned 'Deed of Personal Separation' in the records of Notary Margaret Heywood dated the third (3<sup>rd</sup>) day of July of the year two thousand and twenty (2020);*
10. *Therefore, all requests imposed by Law are simply satisfied;*
11. *Furthermore, in virtue of the 'Deed of Personal Separation' in the records of Notary Margaret Heywood dated the third (3<sup>rd</sup>) day of July of the year two thousand and twenty (2020), the parties agreed that any judicial proceedings aimed at the dissolution of their marriage shall be exclusively governed by Maltese Law and subjected to the sole jurisdiction of the Court of Justice of Malta*
12. *Applicants are confirming the content of this application under oath.*

*Therefore, and in light of the premised, and without prejudice to the aforementioned deeds concluded between the parties, applicants humbly ask this Honourable Court to;*

1. *Pronounce the divorce, that is, the dissolution of the marriage contracted between the parties on the twenty third (23<sup>rd</sup>) day of March of the year thousand and seven (2007)*
2. *Issue the Parties with the certificate concerning judgments in matrimonial matters in terms of Article 39 of Council Regulation (EC) no 2201/2003 of 27*

*November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility a copy of which certificate is being herewith attached as duly completed.*

Having seen that the application and documents, the decree and notice of hearing have been duly notified according to law;

Having heard the evidence on oath;

Having seen the exhibited documents and all the case acts;

Having seen the Articles 66A, 66B u 66C of Chapter 16 of Laws of Malta;

**Considers:**

**BK testified by means of an affidavit (*vide affidavit at page 54*),** that the parties married on the 23<sup>rd</sup> of March 2007 in H, G, and from this marriage a child was born. He testified that their marriage broke down and subsequently the parties signed their ‘Deed of Family Agreement’ regarding the custody of the child dated 7<sup>th</sup> of December 2012. Moreover, they regulated their consensual separation by means of a public deed dated the 3<sup>rd</sup> of July 2020 in the acts of Notary Dr Margaret Heywood. He testified that they both have independent life from each other and therefore there is no possibility of reconciliation. He declared that there are no maintenance issues between them.

**KK testified (*vide affidavit fol 55*)** and confirmed and corroborated her husband’s testimony.

**Considers:**

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of the Laws of Malta:

***66A. (1) Each of the spouses shall have the right to demand divorce or dissolution of the marriage as provided in this Sub-Title. It shall not be required that, prior to the demand of divorce, the spouses shall be separated from each other by means of a contract or of a judgement.***

*(omisis)*

*66B. Without prejudice to the following provisions of this article, divorce shall not be granted except upon a demand made jointly by the two spouses or by one of them against the other spouse, and unless the Court is satisfied that:*

- (a) upon a demand made jointly by the two spouses, on the date of commencement of the divorce proceedings, the spouses shall have lived apart for a period of, or periods that amount to, at least 6 months out of the preceding year: Provided that when the demand is made by one of the spouses against the other spouse, on the date of commencement of the divorce proceedings, the spouses shall have lived apart for a period of, or periods that amount to, at least one year out of the preceding two years; or*
- (b) on the date of commencement of the divorce proceedings, the spouses are separated by means of a contract or court judgment; and*
- (c) there is no reasonable prospect of reconciliation between the spouses; and*
- (d) the spouses and all of their children are receiving adequate maintenance, where this is due, according to their particular circumstances, as provided in article 57:*

*Provided that the spouses may, at any time, renounce their right to maintenance: Provided further that for purposes of this paragraph, maintenance ordered by the court by a judgement of separation or agreed to between the spouses in a contract of separation, shall be deemed to be adequate maintenance:*

*Provided further that a divorce pronounced between spouses who were separated by a contract or by a judgement shall not bring about any change in what was ordered or agreed to between them, except for the effects of divorce resulting from the law.*

**Deliberates:**

The Court has seen that the parties contracted their marriage on the 23<sup>rd</sup> of March 2007, which marriage bears certificate number 94a/2007 which is marked and exhibited as Dok X and lies at page 58. The Court examined the original certificate exhibited by both parties which was filed *animo ritirandi*. A child was born from this marriage.

From the acts of the case it transpires that the parties' marriage broke down and they regulated their personal separation by means of a public deed in the acts of Notary Dr Margaret Heywood dated 25<sup>th</sup> of April 2014 (*vide* contract of separation at page 4). The Court observes that as indicated by the parties' in their respective testimonies, the parties are now leading separate lives and have renounced to their right to receive maintenance from one another.

Therefore, it is established that the parties have been separated in accordance with the time frame required by law.

Furthermore, the Court finds that there is no reasonable prospect of a reconciliation between the parties.

**For these reasons, the Court pronounces the dissolution of the marriage between the parties by divorce, with Marriage Certificate Number 94a/2007 and orders the Court Registrar to advise the Director of the Public Registry of the dissolution of the marriage between the parties so that this may be noted in the Public Registry.**

**Costs shall be divided between the parties.**

**Read.**

**Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)**

**Lorraine Dalli  
Deputy Registrar**