



**CIVIL COURT
(FAMILY SECTION)**

MR. JUSTICE ANTHONY G. VELLA

Sitting of Thursday 7th November 2024

Sworn Application number: 80 /2024 AGV

FCN

vs

ICN

The Court;

Having seen the sworn application by ICN , dated 12th September 2024,

Submits with respect:

That the parties are Romanian and have been living in Malta since June 2022,

1. The parties married in Romania on 12 June 2014 (**DOK A**) and have three minor children (**DOK,B,C,D**),
2. That on 12 April 2024 plaintiff filed a sworn application before this Honourable Court instituting personal separation proceedings, which are still pending,
3. That defendant wishes that these proceedings are converted from that of personal separation to that of separation and divorce in terms of article 66F of Chapter 16 of the Laws of Malta,
4. That as of today defendant declares that he has always honoured his maintenance obligations,
5. That defendant also declares that there is no reasonable prospect of reconciliation,
6. That as of today the parties have been *de facto* separated for over a year and thus satisfy the requirements specified in article 66B of Chapter 16 of the Laws of Malta.
7. That defendant is also of the humble opinion that it is in the parties' best interest that the community of acquests established *ipso jure* in terms of article 1316(2) of Chapter 16 of the Laws of Malta is terminated so that both parties can perform acts of a civil nature without the need

of the other's consent and that both parties shall then be responsible for debts contracted individually.

8. That defendant believes that the plaintiff shall not suffer any prejudice with the termination of their current matrimonial regime.

Therefore, in view of the above, defendant respectfully asks this Honourable Court to:

1. **Order** that the demand for separation in this case is converted to that of separation and divorce in terms of article 66F of Chapter 16 of the Laws of Malta,
2. **Order** the termination of the community of acquests in terms of article 55 of Chapter 16 of the Laws of Malta and **declare** that the matrimonial regime between the parties shall be that of Separation of Estates,
3. **Notify** the Director of Public registry with the above-mentioned judgements.

Having seen the reply of FCN dated 2nd October 2024 for the defendant's application dated 12 th September 2024;

1. That by means of the application the defendant is requesting that the separation case is converted to a divorce and the community of acquests between them, is terminated.
2. That the respondent does not have any objections these demands. That the demand of the divorce, should however legally be pronounced at the end of the present Court case.

Therefore, the respondent does not have any objection that the current separation case is covered to divorce, and that the community of acquests, is terminated.

CONSIDERS:

That this application is intended to have the separation case be converted to a divorce case, and that the Court orders the community of acquests that exists between the parties to be terminated. Defendant does not object to these two requests. The Court should specify at this stage that such requests may be made by either party at any stage in separation proceedings.

The effects of such requests, if upheld, are the following; on the one hand, the case will proceed as a divorce case, but with the Court still having to determine whether one or both parties are partly or wholly at fault for the breakdown of marriage. This will necessarily entail that the divorce will be only pronounced at the end of the case, in the final judgment.

On the other hand, the termination of the community of acquests takes place immediately upon it being so pronounced by the Court and registered with the Public Registry. In essence, this simply means that the regime of the community of acquests ceases to exist between the parties. From the date of the judgment onwards, both parties may buy property in their own name, and such property will no longer automatically form part

of the common pot of property enjoyed up to that date. However, this decision does not liquidate the property that had formed part of the community of acquests. That liquidation happens, again, on final judgment. Therefore, any property held in common by the parties up to the date of this judgment will still form part of the community of acquests until it is liquidated.

Once there is no objection on the part of defendant to plaintiff's requests, the Court may proceed to pass judgment in this regard.

DECIDE:

NOW, THEREFORE, THE COURT;

UPHOLDS Plaintiff's requests.

1. **Orders** that the demand for separation in this case is converted to that of separation and divorce in terms of article 66F of Chapter 16 of the Laws of Malta,
2. **Orders** the termination of the community of acquests in terms of article 55 of Chapter 16 of the Laws of Malta and **declares** that the matrimonial regime between the parties shall be that of Separation of Estates.

Notifies the Director of Public registry with the above-mentioned judgements.

Costs reserved for the final judgment.

Antonio Giovanni Vella

Judge

Concetta Gauci

Deputy Registrar