

**CIVIL COURTS
(FAMILY SECTION)**

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

Hearing of 29th of March 2023

Application no. : 92/2023 JPG

Case no. : 22

**DV
and
AE**

The Court:

Having seen the joint sworn Application filed by DV and AE, dated 20th February 2023, at page 1 (translation at page 4), wherein it was held:

- 1. That the parties got married on the eighth day of February of the year two thousand and eighteen (08-02-2018) at the Public Registry, Malta as evidenced in the extract of the Marriage Certificate hereon attached and marked as “**Doc DA1**”;*
- 2. That from the marriage the parties had a child namely A who was born on X who is still a minor;*
- 3. That in virtue of the deed published in the acts of Notary James Grech LL.D., on the 19th November, 2021 which deed is being hereon attached marked as “**Doc DA2**”, the parties separated amicably and this after being duly authorised in virtue of a decree by this Honourable Court;*
- 4. That the conditions set forth for the pronouncement of divorce in terms of Article 66B of the Chapter 16 of the Laws of Malta are satisfied in that:*

- i. *there is absolutely no reasonable prospect for the parties to reconcile;*
 - ii. *in terms of clause number four (4) of the above-mentioned deed of separation, the parties renounced to their respective right to request maintenance from each-other and henceforth no maintenance is this in this regard;*
 - iii. *there are no issues/problems in relation to the maintenance due for the minor;*
5. *That in terms of Article 66 N (1)(a) and (b) it is declared that both parties are domiciled and resident in Malta;*
 6. *That all the above is confirmed by DV and AE in their respective affidavits hereon attached and marked as “Doc DA3” and “Doc DA4” respectively;*

On the strength of the above, the parties are respectfully requesting this Honourable Court, in terms of Article 66 A et seq of Chapter 16 of the Laws of Malta to:

1. *Pronounce the dissolution of the marriage which happened on the eighth day of February of the year two thousand and eighteen (08-02-2018) at the Public Registry, Malta, in terms of Article 66B of Chapter 16 of the Laws of Malta;*
2. *Order the Registrar of Courts, to notify the divorce of the parties to the Director of Public Registry within the period allowed for this purpose by this Honourably court, so that the same shall be registered on the marriage certificate of the parties.”*

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

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:

DV testified (vide affidavit at page 20) that the parties were married on the 8th of February 2018, and that from this marriage a child was born who is still minor. He stated that this marriage broke down and the parties separated by virtue of a contract dated 19th of November 2021 in the acts of Notary Dr James Grech. He declared that there is no prospect for reconciliation with his wife. Moreover, he affirmed that there are no maintenance arrears due.

AE testified (vide page 21 et seq) and corroborated all evidence given by her husband.

Deliberates:

According to Law, it is confirmed in Articles 66A and 66B of Chapter 16 of 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.

Considers:

The Court has seen that the parties were married on the 8th February 2018, (vide page 7) which marriage bears certificate number 274/2018 and one child was born from this marriage who is still minor.

The record shows that the marriage broke down and the parties obtained a personal separation by means of a public deed in the acts of Notary Dr James Grech (vide Dok B, page 4 et seqq) dated 19th of November 2021. Therefore, it is established that the parties have been separated in excess of the timeframe required by law.

The record shows that that there are no pending maintenance arrears.

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, which marriage bears the certificate number 274/2018 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 registered in the Public Registry.

Costs shall be divided equally between the parties.

Read.

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

**Lorraine Dalli
Deputy Registrar**