



Trapped in marriage

Malta is the only country in the EU that forbids divorce. As there is no assistance from the EU in solving this situation, one Maltese woman is looking for another way out of her marriage.

By Stephanie Paersch

It was on a rather cold morning in February this year when Charmaine Mangion's hopes of marrying Ivan de Giovanni, her partner in life and father of her two-year old son, were shattered by a decision of Malta's Civil Court.

"After the annulment was declined I cried a whole week. I had already been planning my wedding," says Charmaine Mangion. *"And annulling my first marriage was the only hope."*

Malta is the only country in the European Union that does not allow divorce and therefore Charmaine Mangion's only option to dissolve her broken first marriage was an annulment. But an annulment is only granted if it can be proved before a court that the marriage never really existed or was based on false grounds.

With this option being denied, her hopes of forming a real family with Ivan de Giovanni are shattered.

A fact, that makes Charmaine Mangion frustrated and angry; frustrated because Maltese law forbids her to marry the man she loves and angry because Maltese are the only EU citizens without the right to re-marry.

"Nobody in the EU gives a damn. The only benefit we got from joining the European Union was money to improve our roads, but we are still the only EU country without divorce.

Why can I not have the same rights than any other European citizen," says Mangion.

Europe is not getting involved

The answer to this question is simple as, according to the EU treaty, divorce law is a matter of national competence and therefore the EU has no competence to legalise it. But despite this reassurance, Malta's politicians are raising their guard against a possible introduction of divorce through the EU back door.

"There is subtle pressure on the lights of equality of treatment across the EU," says Alexander Spiteri, chair of the National Family Commission of the Family Ministry of Malta.

Currently, a proposed regulation that deals with which national law would be applicable in cases of divorce between EU citizens of different nationalities is being negotiated between member states. The Maltese



government threatened to block the so-called Rome III regulation proposed by the Commission last July unless it was legally assured the new rules will not be applicable to it.

European Justice Commissioner Franco Frattini now gave this assurance on March 20th this year. In a press release, the Commissioner said that the EU has no intention of pressuring the Maltese government to introduce divorce. Additionally, he said that the Charter of Fundamental Human Rights does not refer to a right to divorce, which is, thus, still governed by domestic laws.

The Church is proud on Malta's no to divorce

But this is an answer that is not acceptable for Charmaine Mangion. "I think it is against my fundamental right to marry again," says Charmaine Mangion. *It is my lifestyle and my choice. It is funny that the government can come and tell me 'No you are living in Malta, you can't get married again. This is our law, because we are Catholic.'*"

Although a faithful Catholic herself Charmaine Mangion stopped going to Church as she is no longer allowed to receive the Eucharistic as a separated woman living together with a new partner.

"They say, we are living in sin," says Mangion. "So I stopped going to mass. It is like being invited to party, but I am told that I can only watch but not eat or drink anything."

In Floriana, at the headquarters of the Archdioceses of Malta, Father Anthony Gouder is shaking his head about Charmaine Mangion's frustrated attitude. The vice-leader of Malta's Church administration is proud of the Maltese government firm stand against divorce.

"I cannot find one single positive consequence of divorce for a family or for a nation. If you look at other nations where divorce was introduced, you will find that there were less marriages and more cohabitating. And you also have to consider the poverty that hit especially women and children through divorce," says Father Gouder.

A Maltese way of divorce

Although divorce is not an option in Malta that does not mean that the Maltese government holds its citizens hostage in broken marriage, as there is a Maltese way of divorce.

It is called a legal separation, where a legal contract is made to establish details like custody for children or division of property, but the couple remains legally married and therefore cannot re-marry.

"It is really funny how hypocritical Malta is. At a legal separation, the judge then warns the couple in his final words: 'Even if you are legally separated now, that does not mean that you can have sex with someone else,'- while the new partner is already waiting outside the court room," describes Dr. Emmy Bezzina, Charmaine Mangion's lawyer and head of the organisation Malta's Divorce Movement, the ruling of a legal separation.

To be able to marry again, the only option is either a religious or a civil annulment, which Charmaine Mangion already tried unsuccessfully.



No divorce for Maltese

Tension and despair for the couples

When asked to give their arguments against an introduction of divorce the National Family Commission of the Family Ministry of Malta is answering evasive.

"The position of the National Family Commission is that although the Commission would tend to view the introduction of divorce as the strategy of last resort in the maintenance of national social cohesion, there is as yet insufficient research to determine whether divorce is the best mechanism for remarriage in the Maltese context," says Spiteri.

Mario Vassallo, professor for sociology at the University of Malta, does not agree with the Maltese government's reluctant attitude towards divorce.

"The Maltese government argues that divorce will break down the family even further, but I think it is the opposite. Divorce would at least allow some sort of regularity for the people who have not succeeded in their marriage. The situation now just leads to a lot of tensions," says Vassallo.

Tensions derive not only from the fact that couples are frustrated not to be able to marry again, but also that for their living condition there are no regulations.

Charmaine Mangion receives no benefits as a separated single mother because she is living together with a new partner.

"When I asked why I am denied my benefits, they argued that I am living together with a man and the man is the breadwinner," says Charmaine Mangion.

On the other hand, her partner Ivan is regarded as a single man when it comes to taxation.

"Actually it is pretty clever of the government. They save money by not allowing us to marry," laughs Ivan de Giovanni bitterly.

But not only on the financial side is the couple confronted with difficulties. When Ivan had to go to hospital last year Charmaine Mangion had to lie to get information about his condition, as she is officially not regarded a family member.

"I mean one could say, marriage is just a piece of paper, but it is not. This piece of paper opens a lot of doors for you," says Charmaine Mangion.

Giving up or fighting on?

Charmaine Mangion and Ivan de Giovanni are not an exception in Malta. There exist no concrete number, but the National Office for Statistics estimates that one third of all marriages in Malta are broken.

On the other side of the island, in Naxxar, there lives another couple. Carmelo Tabone is married and has two grown up-children, but the marriage went on the rocks when the



children were still little. Eventually, he met his new partner Charmaine Grech, with whom he has two teenage sons. In their home in Naxxar, the pictures on their walls – baby pictures, birthday-parties, family excursions - are documenting 22-years of family life. In the centre of the living room there is one big picture of Carmelo Tabone and his partner Charmaine Grech, all dressed in white.

“We had this made instead of a wedding picture,” says Carmelo Tabone. *“We have given up on the hope to be ever married for real.”*

After 14 years of contentious proceedings before Malta’s Civil Courts which created a lot of hardships and grave financial difficulties, the couple has given up the fight.

“There is nothing you can do. Who knows, maybe when I am 80 they change the laws, but then I am going to be a very old bride,” laughs Carmelo’s partner Charmaine Grech sadly.

For Charmaine Mangion and her partner Ivan de Giovanni accepting Malta’s no to divorce is not an option. *“It is my dream to be married again and I will not give up on it,”* says Charmaine Mangion.

Therefore the couple is now considering filing a constitutional case on the grounds that their fundamental rights to form a family are being violated by the Malta authorities.

“It is going to be a stiff, uphill battle,” says their lawyer Dr. Emmy Bezzina. *“But if this case were to be filed in Court, it would be a historic step to force the Maltese government to introduce a local Maltese divorce law.”*

Waking up the EU by going against the Church

Bezzina, who has been fighting for an introduction of divorce in Malta since the beginning of his career, is putting a lot of hope into this case himself and therefore offers his services free of charge. With this constitutional case

he not only hopes to raise awareness in the rest of Europe, but also to win the assistance of the European Union.

“I have been to Brussels several times to ask assistance in fighting Malta’s painful state of affairs, but in vain, as the EU does not want to mingle in internal affairs like the divorce question,” says Bezzina. *“I was told to fight it out locally and give the EU prove that the government is going against the will of the people. Only then Europe will step in.”*

For Ivan de Giovanni and Charmaine Mangion the European Union is not the only organisation that they considered in their decision to file the constitutional case.

“We are going against the government and the Catholic Church, so hell is going to break loose,” says Charmaine Mangion.

“When I asked Ivan if we should do it, he asked me if we would go against the Church with that. When I answered that we would he replied: ‘Hell yes, let’s take them on!’”