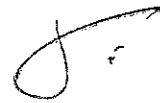


Att biex jemenda l-Kap 9 tal-Ligijiet ta' Malta, jigifieri l-Kodici Kriminali

1. Dan l-Att jista' jissejjah l-Att tal-1999 biex jemenda l-Kap 9, jigifieri l-Kodici Kriminali.
2. L-Artikolu 338(z) ghandu jigi emendat kif gej:

338(z) "meta hekk ordnat minn xi qorti, jew hekk miftiehem skond kuntratt ta' separazzjoni personali, jonqos li jaghti lil martu jew tonqos li taghti lil zewgħa, is-somma ffissata minn dik il-qorti, jew hekk miftiehma skond kuntratt ta' separazzjoni, is-somma ffissata minn dik il-qorti bhala manteniment għaliha jew għalih u, jew, għall-ulied fi zmien hmistax-il jum minn dak il-jum li fih, skond dak l-ordni, jew dak il-kuntratt ta' separazzjoni, ikollha tithallas dik is-somma"



GHANIJIET U RAGUNIJIET

Jinhass li tezisti anomalija fil-ligi fis-sens li ghalkemm meta persuna f'kawza ta' separazzjoni tirrifjuta li thallas il-manteniment ordnat mill-Qorti, din tkun suggetta għal azzjoni kriminali, dan ma japplikax f'kazi fejn il-manteniment ikun gie determinat permezz ta' kuntratt ta' separazzjoni.

Ghandu jigi emfasizzat li llum il-parti l-kbira tas-separazzjonijiet qed jigu transatti amikevolment permezz ta' kuntratt pubbliku. F'dan il-kaz fejn wiehed mill-konjugi jirrifjuta li jhallas il-manteniment miftiehem, ma tista' tittiehed ebda azzjoni kriminali kontra tiegħu. Dan naturalment huwa ta' detriment għall-konjugi l-iehor / ohra, liema konjugi jkollu / jkollha mezz ferm inqas effikaci ta' rimedju.

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Dr. Jose' A. Herrera LL.D., M.P.

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An Act to amend Chapter 9 of the Laws of Malta, that is the Criminal Code

1. This Act may be cited as the Criminal Code (Amendment) Act 1999.

2. Article 338(z) of this Act shall be amended as follows:

338(z) "when so ordered by a court, or so agreed according to a separation contract, to give his or her spouse the sum fixed by that court as maintenance for that spouse and, or, the children, within fifteen days from the day on which, according to such order or according to such separation contract, such sum should be paid";

Dr. Joseph A. Kouroukh MD

OBJECTS AND REASONS

It is felt that an anomaly exists in the law in the sense that whereas the refusal of a party in a separation case to pay maintenance as ordered by a court can give rise to criminal action, this does not apply where maintenance would have been fixed according to a contract.

It must be emphasised that the vast majority of separations are today being settled amicably by public deed. In this case where one of the spouses refuses to adhere to paying maintenance as so agreed, no criminal action can be taken against him or her, and this to the detriment of the other spouse, who will have a far less effective remedy of redress.

Dr. Joseph A. Kouroukh MD

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