Small claims

Malta

1 Existence of a specific small claims procedure

The specific small claims procedure is regulated by Chapter 380 of the Laws of Malta (Small Claims Tribunal Act) as well as by Subsidiary Legislation 380.01, 380.02 and 380.03.

1.1 Scope of procedure, threshold

This tribunal [Tribunal għal Talbiet Żgħar] only has jurisdiction to hear and decide money claims not exceeding the amount of €5,000.

1.2 Application of procedure

Proceedings begin when a claiming party fills in the necessary form, files his claim in the Tribunal's Registry, pays the fee and requests the Tribunal to serve the defendant with his claim. The respondent then has eighteen days from the service of the notice of claim to file his reply. A counter-claim is also permitted. If the defendant feels that another person should pay for the plaintiff's claim, he should indicate that person. The Court Registrar shall then notify the parties of the date and time of the hearing. The adjudicator regulates proceedings in the Tribunal as deemed fit in accordance with the rules of natural justice. The adjudicator shall ensure that the case shall, as far as possible, be heard and decided swiftly, on the same day of the hearing and that the hearing shall not take longer than one sitting. He shall gather information in any manner he sees fit and shall not be bound by the rules of best evidence or the rules relative to hearsay evidence if he is satisfied that the evidence before him is sufficiently reliable for him to reach a conclusion on the case before him. He shall refrain, as far as possible, from appointing referees to give expert evidence. He shall have the same power as a magistrate sitting in a Court of Magistrates in its civil jurisdiction and in particular shall have power to summon witnesses and to administer an oath to witnesses.

1.3 Forms

The party making the claim shall fill in a claims form contained in the First Schedule to Subsidiary Legislation 380.01 (Small Claims Tribunal Rules). The respondent shall reply by also completing a form, which is also to be found in the first Schedule of the abovementioned Subsidiary Legislation.

1.4 Assistance

Parties may be assisted by any person: this does not necessarily have to be a lawyer or a legal procurator.

1.5 Rules concerning the taking of evidence

Parties may give evidence verbally, in the form of documents, or both together. A witness may be summoned — no later than three days before the date when he is required to testify — to appear before the Tribunal on a specific date and at a specific time to give evidence or produce documentation. If a duly summoned witness fails to appear during the sitting, the Tribunal may order that witness to be brought, under arrest, to a sitting to be held on another date.

1.6 Written procedure

The claim and the reply to it are made in writing. Evidence can be documentary. However, appearance before the Tribunal is mandatory on the dates fixed by it.

1.7 Content of judgment

The adjudicator shall list in his decision the main details on which he bases his decision. In the latter, he shall also give his decision on costs.

1.8 Reimbursement of costs

In any award the adjudicator shall determine the costs that any of the parties is to bear. Unless special circumstances otherwise warrant, the losing party is ordered to pay the costs of the party in whose favour the decision is awarded. Costs shall be limited to actual expenses directly made in connection with the case by the party in whose favour the payment of costs is awarded. In the case of a frivolous and vexatious claim, the Tribunal may order the claimant to pay the defendant a penalty not less than €250 and not exceeding €1,250, and this penalty is due as a civil debt.

1.9 Possibility to appeal

Any appeal against a decision of the Tribunal must be filed in the Courts' Registry, by application to the Court of Appeal in its inferior jurisdiction, within twenty days from the date of the decision delivered by the Adjudicator.

Last update: 16/07/2019

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