

Legal 500

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Malta

Litigation

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This country-specific Q&A provides an overview of litigation laws and regulations applicable in Malta.

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Malta: Litigation

1. What are the main methods of resolving disputes in your jurisdiction?

In Malta, disputes relating to civil and commercial matters are primarily resolved through litigation before the courts, arbitration, and, to a lesser extent, alternative dispute resolution mechanisms such as mediation.

Court litigation is the principal formal mechanism, with claims brought before the ordinary courts and a range of specialised tribunals dealing with sector-specific matters. Arbitration constitutes a significant alternative, particularly in commercial and cross-border disputes. Negotiation and settlement, frequently facilitated by legal representatives, are also widely used, both prior to and during formal proceedings.

2. What are the main procedural rules governing litigation in your jurisdiction?

The procedural rules governing civil and commercial litigation in Malta are primarily set out in the Code of Organisation and Civil Procedure (Chapter 12 of the Laws of Malta) (the 'COCP'), and in subsidiary legislation enacted thereunder.

The COCP constitutes the principal legislative framework governing all aspects of civil and commercial proceedings, regulating, amongst others, the organisation and jurisdiction of the courts, the commencement of proceedings, the service of judicial acts, pleadings and written submissions, the production of documentary evidence and the examination of witnesses, as well as the delivery and enforcement of judgments and the grounds for appeal.

3. What is the structure and organisation of local courts dealing with claims in your jurisdiction? What is the final court of appeal?

The Maltese courts are organised into inferior and superior courts, supplemented by specialised tribunals.

The superior courts consist of the Civil Court, the Court of Appeal, and the Constitutional Court. The Court of Magistrates (Gozo) also sits in a superior jurisdiction, applying the same procedural rules as the superior

courts. The Civil Court in its superior jurisdiction hears all cases not vested in another court or tribunal, and generally those exceeding EUR 15,000 in value or where the claim cannot be quantified at the time of filing. The First Hall of the Civil Court determines civil and commercial claims and is divided into four sections: general jurisdiction, commercial, family, and voluntary jurisdiction.

The Court of Appeal hears appeals from the Civil Court (sitting as a bench of three judges) and from the inferior courts (sitting as a single judge). It is the final court of appeal in civil and commercial matters: there is no third-level review in cassation or by a supreme court, and its judgments are not appealable. Maltese civil procedural law does, however, provide for the exceptional remedy of a "retrial" (or "new trial") of judgments delivered by the Court of Appeal or by the First Hall of the Civil Court in its Constitutional Jurisdiction, available on limited grounds stated at law.

The Constitutional Court acts as a court of first instance on questions concerning membership of the House of Representatives and the suspension of electoral processes by the Electoral Commission. It also exercises appellate jurisdiction over, among others, decisions of the First Hall of the Civil Court on human rights and fundamental freedoms, decisions of any court of original jurisdiction affecting the interpretation of the Constitution (other than on human rights), and matters concerning the validity of laws (other than on human rights).

The inferior courts comprise the Court of Magistrates (Malta) and the Court of Magistrates (Gozo), which determine monetary claims exceeding EUR 10,000 but not exceeding EUR 15,000. Claims not exceeding EUR 10,000 fall within the competence of the Small Claims Tribunal, this threshold having recently been raised from EUR 5,000.

Maltese law further establishes a number of specialised tribunals to determine disputes of a particular commercial or administrative nature, including the Financial Services Tribunal (established under the Malta Financial Services Authority Act, Chapter 330 of the Laws of Malta), the Public Contracts Review Board (Subsidiary Legislation 601.03), the Financial Services Arbiter (Chapter 555 of the Laws of Malta), the Industrial Tribunal (Chapter 452 of the Laws of Malta), the Administrative

Review Tribunal (Chapter 490) of the Laws of Malta, and the Information and Data Protection Appeals Tribunal (Chapter 586 of the Laws of Malta).

4. How long does it typically take from commencing proceedings to get to trial in your jurisdiction?

The law requires that all proceedings at first instance shall be appointed for hearing within two months and sittings shall be held on a bi-monthly basis. In practice, the frequency of the sittings depends on the respective judge's caseload.

In cases of urgency, the court may abridge any legal time and may even appoint the case for trial before the close of preliminary written procedures. Applications for precautionary warrants, particularly ex parte applications, are generally dealt with very expeditiously, with interim court decrees often obtained within a matter of hours.

An exception to the general position applies to special summary proceedings relating to debt collection claims that are certain, liquid, and due, in which case the hearing must be scheduled no earlier than fifteen days and no later than thirty days from the date of service of the sworn application on the respondent.

5. Are hearings held in public and are documents filed at court available to the public in your jurisdiction? Are there any exceptions?

As a general rule, proceedings before courts and tribunals are held in public. However, it is within the discretion of the court to order that the trial be heard with closed doors on the grounds of decency or good morals. The request for a trial to be heard with closed doors may, upon good reason being shown, also be made by both parties together. Proceedings involving the Financial Intelligence Analysis Unit (FIAU) in money laundering matters are not public and are heard behind closed doors. Judgments are delivered in open court, with a signed transcript of the judgment itself being deposited in the records of the case. Judgments are also published online. The parties may be anonymised in sensitive matters.

Generally, all documents and records of the proceedings are accessible to the public. Exceptionally, the court or tribunal may order documents filed in the record to be sealed or even establish confidentiality rings, particularly where these contain confidential information or their disclosure could prejudice the parties to the proceedings.

Moreover, the courts have discretion to restrict the public nature of cases or of pieces of evidence in the interests of justice (such as court disclosure of banking documents or other confidential documents). There have been court decrees protecting documents containing trade secrets or confidential information, but the circumstances will vary depending on case-specific facts or depending on the subject-matter of the dispute (for example, proceedings under the Competition Act).

6. What, if any, are the relevant limitation periods in your jurisdiction?

Limitation periods for private law claims vary and are generally determined by the nature of the claim and the specific facts of each individual case.

The default limitation period is thirty years, however, this is subject to a number of exceptions. Contractual claims are subject to a five-year limitation period, while claims in tort are subject to a limitation period of two years.

Save where a specific law provides otherwise, time limits begin to run on the day on which the relevant action can be exercised, irrespective of the state or condition of the person to whom the action is competent.

In addition to the general prescriptive periods, shorter periods apply to certain actions or classes of actions, including the recovery of sums due under specific types of contracts. By contrast, actions founded on breach of fiduciary obligations are not generally subject to prescription.

7. What, if any, are the pre-action conduct requirements in your jurisdiction and what, if any, are the consequences of non-compliance?

There are no mandatory pre-action conduct requirements before initiating litigation. It is, however, customary for prospective plaintiffs to put potential defendants on notice of their claims, either by way of informal legal letters or through formal judicial letters or judicial protests. Judicial letters and protests are formally filed through the court registry and served on potential defendants through court bailiffs or registered court mail, and also have the effect of interrupting the running of prescriptive periods.

8. How are proceedings commenced in your jurisdiction? Is service necessary and, if so, is

this done by the court (or its agent) or by the parties?

In the superior courts, proceedings are usually instituted by a sworn application, or where the law permits, by a mere application. A sworn application must be confirmed on oath before the Court Registrar or a Commissioner for Oaths, and must contain: (i) a clear and explicit statement of the subject of the cause and a declaration of the facts; (ii) the cause of the claim; (iii) the claim(s); (iv) a notice to the recipient that a sworn reply must be filed within twenty days of service of the sworn application, in lieu of which the court may proceed to adjudicate the matter according to law; and (v) an exhaustive list of witnesses intended to be produced in evidence.

In the inferior courts, proceedings are instituted by application which takes the form of a notice signed by the Registrar, and contains the names of the plaintiff and the defendant, the demand, and the date and hour when the defendant is to appear.

Once the application instituting proceedings has been filed, it must be served on the defendant by court bailiffs or judicial officers. Service is effected by personal delivery of a copy of the judicial act by a court bailiff to the defendant. In the case of corporate entities, service may be effected at the registered office or on a director, company secretary or other officer.

Multiple service attempts may be made at different times of the day without court authorisation. Once service is validly effected, the court bailiff charged with service draws up a separate certificate of service for each attempt in the records of the judicial act. Where service cannot be successfully effected, authorisation may be sought from the court for substituted or indirect service, including by affixation of the judicial act at the local council and police district office and on the door of the defendant's residence, together with publication of a summary of the act in the Malta Government Gazette and in one or more daily newspapers.

Defendants may also be sued where they are established or physically present outside the jurisdiction. Where the defendant is located in a Member State of the European Union, service may be effected in accordance with Regulation (EU) No 2020/1784 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (recast). Where the defendant is located in a State party to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, service is effected in accordance with the procedures set out therein.

9. How does the court determine whether it has jurisdiction over a claim in your jurisdiction?

Jurisdiction in Malta is primarily determined by reference to the COCP, together with any applicable statutory provisions governing specific types of claims. Jurisdiction may be examined by the court either ex officio or upon objection by a party.

In general terms, the court will assess jurisdiction by reference to both territorial jurisdiction and subject-matter jurisdiction (referred to as competence).

The COCP provides that the Maltese civil courts have territorial jurisdiction to hear and determine actions concerning: (i) Maltese citizens who have not fixed their domicile elsewhere; (ii) any person domiciled, resident or present in Malta; (iii) matters relating to property situated in Malta; obligations contracted in Malta, provided that the defendant is present in Malta; (iv) obligations contracted abroad but to be performed in Malta; (v) obligations in favour of a Maltese citizen, resident or body corporate operating in Malta, where the judgment can be enforced in Malta; and (vi) any person who has expressly or tacitly submitted to the jurisdiction of the Maltese courts.

In the case of civil or commercial disputes against a defendant domiciled in an EU Member State, the courts of justice in Malta would apply the provisions of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (Brussels I Recast). Where the defendant is not domiciled in a Member State, jurisdiction is determined in accordance with the applicable national rules.

Subject-matter jurisdiction depends on the nature and value of the claim, with competence allocated between the superior and inferior courts in accordance with the statutory framework.

10. How does the court determine which law governs the claims in your jurisdiction?

As a general rule, Maltese courts will apply Maltese law to proceedings before them, particularly where no foreign element arises. However, where a claim involves cross-border elements, a foreign law may apply if pleaded by the parties and if conflict of laws rules determine it is the applicable law to the dispute.

In civil and commercial matters, the conflict of laws rules

are primarily governed by directly applicable European Union instruments. In particular, Regulation (EC) No 593/2008 (Rome I) governs contractual obligations, while Regulation (EC) No 864/2007 (Rome II) governs non-contractual obligations. Under these instruments, the principle of party autonomy is central. Parties are generally free to choose the law governing their contractual relations and, in certain circumstances, their non-contractual obligations, and such choice will ordinarily be upheld by the court.

In the absence of a valid choice of law, the applicable law is determined by reference to prescribed connecting factors. In contractual matters, this typically includes the place of performance of the obligation, whereas in tort, it generally depends on the place where the damage occurred.

There might also be situations where the court may be required to apply overriding mandatory provisions of law or to refuse the application of foreign law where this would be contrary to Maltese public policy.

Foreign law is a question of fact under Maltese civil procedural law. Therefore, if any one party wishes to invoke foreign law, the burden of proof to prove that foreign law rests with that party. If foreign law is not pleaded or otherwise not proven, Maltese courts will apply national law to the dispute in default.

11. In what circumstances, if any, can claims be disposed of without a full trial in your jurisdiction?

Under Maltese law, claims may be disposed of without a full trial in a limited number of circumstances. The most notable mechanism is the special summary procedure, regulated by the COCP. This allows the court to deliver judgment without proceeding to a full trial where the claim concerns the recovery of a debt which is certain, liquid and due, or the eviction of a person from immovable property. In such cases, if the defendant fails to establish a prima facie defence, the court may proceed directly to judgment.

In addition, in cases involving the recovery of a debt which is certain, liquid and due, not consisting in the performance of an act and not exceeding EUR 25,000, a creditor may proceed by means of only a judicial letter. Where the debtor fails to oppose the claim within thirty days of service, the judicial letter becomes enforceable as an executive title.

Claims may also be disposed of at a preliminary stage

where the defendant raises dispositive defences, typically by way of preliminary dilatory or peremptory pleas in the sworn reply. Such pleas may be determined prior to an examination of the merits and commonly include lack of juridical interest, lack of jurisdiction, nullity of procedure, res judicata, settlement or compromise, and prescription. Where upheld, these pleas may result in the dismissal of the action without the need for a full trial.

12. What, if any, are the main types of interim remedies available in your jurisdiction?

Under Maltese law, interim relief is primarily available by means of precautionary warrants, which may be issued in support of claims on the merits for the purpose of securing the plaintiff's rights. Such warrants are typically issued on an ex parte application confirmed on oath and are generally granted expeditiously, often within 24 to 48 hours, without the need for a hearing (with the exception of the warrant of prohibitory injunction). Each warrant is subject to specific legal requirements and procedural conditions as provided by law.

There are various types of precautionary warrants available under Maltese law, including:

- (i) Garnishee order – attaches monies or movable property held by third parties (typically credit or financial institutions present in Malta) for the debtor. The garnishees are required to deposit any such funds or movable property in court within 19 days from service of the warrant.
- (ii) Warrant of seizure of movables – orders the removal or attachment of the debtor's tangible and intangible movable property, including shares, which is then held under court authority pending eventual judicial sale by auction once the creditor is in possession of an executive title, such as a final and binding judgment or arbitral award.
- (iii) Warrant of arrest of sea vessels – secures a debt or claim, whether in personam or in rem, that could be frustrated by the departure of the vessel. It is available only in respect of vessels exceeding ten metres in length.
- (iv) Warrant of arrest of aircraft – secures a debt or claim, whether in personam or in rem, that could be frustrated by the departure of the aircraft.
- (v) Warrant of prohibitory injunction – restrains a person from doing, or omitting to do, anything that may be prejudicial to the applicant. This is the only warrant that is not decided on a purely ex parte basis and requires a

hearing before issue, although the court may, on the applicant's request, grant the injunction provisionally pending the hearing.

(vi) Warrant of description – directs a court bailiff to take an itemised inventory of movables.

(vii) Warrant of seizure of a commercial going concern – preserves the totality of the assets of a going concern, including licences and goodwill, by prohibiting their sale while ensuring the business continues to operate. Where upheld, a court-appointed administrator oversees the business at the applicant's cost.

Specific legislation provides for additional injunctive measures. In intellectual property matters, for example, the court may order the preservation of evidence held by the defendant or third parties and issue a “cease and desist” order restraining any act likely to infringe a party's rights.

Provisional measures may also be sought in Malta in support of international arbitration (whether seated in Malta or abroad) and judicial proceedings on civil and commercial matters pending in other EU / EEA jurisdictions. In particular, under Regulation (EU) No 1215/2012, Maltese courts may grant protective measures in support of proceedings before courts in other Member States, although such measures have only territorial effect.

In addition, by virtue of Regulation (EU) No 655/2014 it is also possible to apply for a European Account Preservation Order, enabling creditors to freeze bank accounts in other Member States through a single procedure, operating alongside domestic garnishee order procedure.

The plaintiff is required to institute proceedings on the merits within twenty days from the issuance of the warrant. The interim measure remains in force pending the determination of the underlying proceedings and may thereafter be converted into an executive measure once the title becomes final and definitive following the court's ruling on the merits (*res judicata*).

13. After a claim has been commenced, what written documents must (or can) the parties submit in your jurisdiction? What is the usual timetable?

Proceedings are typically initiated by filing an application, whether sworn or not, which must set out the facts, the legal basis of the claim and the relief sought, together

with any supporting documents and a list of witnesses.

Upon service, the defendant is required to file a sworn reply within the statutory time limit of twenty days. This reply must address the plaintiff's allegations by admitting, denying or qualifying the facts, and must raise any preliminary or substantive pleas.

In the absence of preliminary pleas, the parties proceed to the evidentiary stage: the plaintiff files affidavits and documentary evidence in support of its case, followed by the defendant's affidavits and documentary evidence. Affiants are then made available for cross-examination.

Parties may also file applications throughout the proceedings in respect of procedural matters, including requests for the production of evidence, the appointment of experts, or the joinder of parties.

Following the conclusion of the evidentiary phase, the parties may submit written and, or verbal legal submissions setting out their arguments on the merits of the case, which serve as closing submissions.

As regards timing, the initial phase of proceedings is partly structured by statutory deadlines, most notably, a six-month period at first instances and a one-year period at appellate stage, to close written pleadings – being the filing of the defendant's sworn reply. Beyond this, there is no fixed timetable for the completion of pleadings, the production of evidence, or the filing of final submissions. The progression of the case is primarily determined by the court's case management, scheduled sittings, the complexity of the matter, and any interlocutory proceedings or preliminary pleas that may arise.

14. What, if any, are the rules for disclosure of documents in your jurisdiction? Are there any exceptions (e.g. on grounds of privilege, confidentiality or public interest)?

Under Maltese law, evidence is generally confined to that produced by the parties in support of their respective cases. Accordingly, there is no general obligation of full and frank disclosure. The possibility of discovery is limited, and the production of documents is generally achieved through subpoenas containing specific and targeted requests. Such requests must be relevant to the subject matter of the dispute. The same principles apply to requests directed at third parties, from whom disclosure may also be sought by means of subpoenas.

That said, specific disclosure regimes apply in discrete areas, including the private enforcement of competition

law claims under the Competition Act (Chapter 379 of the Laws of Malta) and the enforcement of intellectual property rights under the Enforcement of Intellectual Property Rights (Regulation) Act (Chapter 488 of the Laws of Malta), where the court enjoys wide-ranging powers to order disclosure (subject to confidentiality) and the preservation of evidence held by the defendant or third parties.

The production of documents is subject to a number of limitations. Legal privilege protects communications between a client and their lawyer made in professional confidence, and such communications cannot be disclosed in court, irrespective of whether counsel is external or in-house. Correspondence exchanged on a 'without prejudice' basis in furtherance of a settlement is likewise protected.

Documents may also be withheld from disclosure on grounds of public interest, including those the disclosure of which would prejudice the security, defence or international relations of Malta, or which contain information communicated in confidence by or on behalf of a foreign government, authority or international organisation. Documents relating to the Cabinet of Ministers are also considered privileged.

The court retains discretion to restrict disclosure or limit the accessibility of particular documents in the interests of justice, including in respect of banking information, trade secrets or other confidential material. The scope of such protection will depend on the circumstances of the case and, where applicable, any relevant legislation.

15. How is witness evidence dealt with in your jurisdiction (and in particular, do witnesses give oral and/or written evidence and what, if any, are the rules on cross-examination)? Are depositions permitted?

Witness evidence is widely used in Maltese proceedings and as a general rule, witnesses are examined *viva voce* in open court during the trial, after having been duly summoned by means of a subpoena issued at the request of a party. Witnesses are examined under oath and may not be assisted or advised by any other person during their testimony.

All persons of sound mind are, in principle, competent to testify, provided they understand the obligation to speak the truth. No objection to the competency of a witness is admissible on the basis of interest in the outcome of the proceedings, although such interest may affect the weight or credibility of the evidence. Parties to the

proceedings may also give evidence, and the general rules governing witnesses apply equally to them.

Witnesses are examined separately and their testimony is recorded by the Registrar. As a rule, hearsay evidence is not admissible, although exceptions may apply in limited circumstances where direct evidence is unavailable.

The rules on examination follow a structured approach. During examination-in-chief, leading or suggestive questions are not permitted without the leave of the court. The opposing party has a right to cross-examine the witness, and leading questions are permitted at this stage. Cross-examination is generally limited to the facts raised in examination-in-chief and matters affecting the witness' credibility. Once examination and cross-examination are concluded, further questioning may only take place with the permission of the court, which also retains the power to question witnesses at any stage.

Witnesses may refresh their memory by referring to contemporaneous documents, which must be produced and made available to the opposing party. The credibility of a witness may be challenged through contradictory evidence or by demonstrating inconsistent prior statements, subject to procedural safeguards. The court may compel a witness to answer questions, save where privilege or other recognised grounds apply, including legal professional privilege, confidentiality obligations relating to certain professionals, and protection against self-incrimination.

Expert evidence may be given by witnesses who are suitably qualified in a particular field. In addition, witnesses may, in limited circumstances, express opinions where these are necessary to convey facts personally perceived by them.

In practice, although evidence is primarily oral, witness statements are often submitted in the form of written sworn statements (affidavits) at an earlier stage of the proceedings, with the deponents subsequently produced for cross-examination during the trial.

Depositions are not a feature of Maltese civil procedure. Evidence is generally taken directly before the court, and pre-trial examination of witnesses outside the court process is not permitted.

16. Is expert evidence permitted in your jurisdiction? If so, how is it dealt with (and in particular, are experts appointed by the court or the parties, and what duties do they owe)?

Expert evidence is permitted in Malta and is commonly relied upon in proceedings.

Parties may appoint their own experts and produce their opinions as documentary evidence. Where expert evidence is produced by a party, their opinion is admissible provided that, in the opinion of the court, the expert is suitably qualified in the relevant field.

The court may appoint an expert (*perit tekniku*) either upon an application by a party or of its own motion where it considers such expertise necessary. In making the appointment, the court identifies the subject matter requiring expert examination and selects an appropriate expert holding the requisite qualifications or warrant. While parties may suggest potential experts, the court is not bound by such proposals and exercises its discretion to appoint an expert whom it considers free from conflicts of interest.

Once appointed, the expert examines the relevant subject matter, and the parties are generally entitled to attend or be represented during any inspections or examinations and may submit observations or additional material to the expert. The expert is required to prepare a written report, which is filed in the court registry and forms part of the official record of the proceedings. Both parties are provided with a copy and are entitled to respond. The court-appointed expert may also be called to give oral evidence in order to clarify or expand upon their report. In such circumstances, the expert is subject to questioning by both parties and by the court. The report of a court-appointed expert typically carries significant evidential weight.

The overriding duty of a court-appointed expert is owed to the court. This duty is reflected in the terms of appointment and the oath taken by the expert, and requires the expert to provide an independent, objective and impartial opinion. Experts engaged by the parties remain subject to their applicable professional and ethical obligations and, although not required to be fully impartial in the same manner as court-appointed experts, are expected to provide opinions grounded in their professional expertise.

17. Can final and interim decisions be appealed in your jurisdiction? If so, to which court(s) and within what timescale?

A right of appeal lies to the Court of Appeal from judgments delivered by courts of first instance, and there is no third-level review in cassation or by a supreme court. Accordingly, judgments delivered by the Court of

Appeal are final.

Appeals from specially constituted tribunals (such as the Financial Services Tribunal) and from the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) lie before the Court of Appeal in its inferior jurisdiction, presided over by a single judge. Appeals from judgments of the First Hall of the Civil Court and of the Court of Magistrates (Gozo) in its superior jurisdiction lie before the Court of Appeal in its superior jurisdiction.

Certain interim or interlocutory decrees may also be appealed outright or subject to prior leave being obtained.

Maltese civil procedural law further provides for the exceptional remedy of a retrial (or "new trial") of a judgment delivered by the Court of Appeal or by the First Hall of the Civil Court in its constitutional jurisdiction, on limited grounds stated at law.

The statutory time limit for lodging an appeal from judgements delivered by the inferior and superior courts is thirty days.

18. What are the rules governing enforcement of foreign judgments in your jurisdiction?

The enforcement in Malta of judgments delivered by the courts of other EU Member States is governed by Regulation (EU) No 1215/2012. Recognition is automatic and enforcement may proceed immediately upon the filing of executive measures, which are then served on the judgment debtor. The debtor may, in turn, file an application before the First Hall of the Civil Court raising any of the grounds for refusal of enforcement provided in the Regulation, and any resulting judgment is subject to appeal.

Where a judgment delivered by the courts of an EEA/EFTA member state is being enforced in Malta, the procedure is regulated by the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, commonly known as the Lugano Convention. The party seeking recognition and enforcement must file an application before the First Hall of the Civil Court, and such application must be accompanied by a copy of the judgment, together with a certified translated copy, and a recognition and enforcement order issued by the court registrar of the EEA/EFTA member state of origin, likewise accompanied by a translated copy.

In cases where a judgment delivered by the courts of a non-EU and non-EEA/EFTA member state (third country)

is being enforced in Malta, the procedure is regulated by the COCP. A foreign judgment that is final and binding, and has been delivered by a competent court outside of Malta, must first be registered before it may be enforced. Registration is effected by means of an application filed before the First Hall of the Civil Court. The judgment debtor, who is a party to those proceedings has the opportunity to raise any of the grounds of objection to the registration. Once the foreign judgment has been registered and recognised, it may be enforced locally in the same manner as a judgment delivered by a Maltese court.

Where a judgment has been delivered by the courts of a state that is party to the Hague Convention on Choice of Court Agreements, on the basis of an exclusive choice of court agreement, the judgment creditor seeking enforcement in Malta has the option to proceed under the framework established by that Convention rather than under the COCP. The choice of procedure rests with the enforcing party.

Where the judgment has not been delivered on the basis of an exclusive choice of court agreement, but has been delivered by the courts of a state party to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters of 2 July 2019 (the Hague Judgments Convention), recognition and enforcement in Malta may alternatively be sought under that Convention. Again, the choice of procedure lies with the enforcing party.

A limited category of money judgments delivered by the superior courts of the United Kingdom may be registered in Malta under the British Judgments (Reciprocal Enforcement) Act (Chapter 52 of the Laws of Malta), in accordance with a separate procedure laid down in that Act and broadly mirroring the COCP procedure.

19. Can the costs of litigation (e.g. court costs, as well as the parties' costs of instructing lawyers, experts and other professionals) be recovered from the other side in your jurisdiction?

Litigation costs may be recovered from the other side in Malta. In its judgment, the court determines which party is to bear the costs of the proceedings. The judgement may clarify whether the party will bear the costs on which issues and in what proportion. The costs are generally recoverable from the unsuccessful party in accordance with the "costs follow the event" principle. The court nonetheless retains a wide discretion in the allocation of

costs and may take into account the parties' procedural conduct, including any dilatory behaviour or a refusal to engage in early settlement.

Recoverable costs typically comprise Court Registry fees, advocates' fees, and legal procurators' fees, all of which are assessed in accordance with the statutory tariffs set out in the schedules to the COCP. The fees of court-appointed experts likewise form part of the costs of the proceedings and are, in principle, recoverable.

Although the fees of the instructing advocate are recoverable by the successful party, as mentioned above, recovery is capped at the amounts provided under the applicable tariff. As a result, recoverable costs are generally lower than the fees actually incurred by the successful party.

20. What, if any, are the collective redress (e.g. class action) mechanisms in your jurisdiction?

The COCP provides a limited mechanism for the consolidation of related claims brought by multiple plaintiffs. Where two or more plaintiffs have claims that are connected in respect of their subject matter, or where the determination of one claim may affect the determination of another and the evidence to be produced is generally the same, those plaintiffs may bring their claims by means of a single application. In such cases, the cause and subject matter of each claim must be clearly and specifically set out in respect of each plaintiff.

This is not a collective redress mechanism in the true sense. Each plaintiff must be individually identified and actively participate in the proceedings, and no plaintiff may bind or represent others who are not named parties.

A more substantive collective redress framework exists under the Collective Proceedings (Competition) Act (Chapter 520 of the Laws of Malta) and the Representative Actions (Consumers) Act (Act No. XVII of 2023), the latter transposing Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers. These instruments allow consumer class actions, group actions, and representative actions in respect of breaches of a broad range of laws, including those governing competition, product and medicine safety, consumer protection, data protection, financial services, and environmental matters, among others. In these cases, proceedings may be brought by a representative plaintiff on behalf of multiple plaintiffs. In the case of consumers, representative actions may be brought by qualified entities, generally

designated organisations or public bodies representing consumers.

All collective and representative actions in Malta are opt-in.

21. What, if any, are the mechanisms for joining third parties to ongoing proceedings and/or consolidating two sets of proceedings in your jurisdiction?

Any person with an interest in the proceedings may be joined by application of either party or by court decree. The joinder, whether introduced to the suit following another party's request or by the court ex officio, participates in the proceedings as a defendant and is entitled to file pleadings, raise pleas, and avail themselves of the same rights and remedies as any defendant, notwithstanding that they were not an original party to the suit. Accordingly, such a party is bound by the outcome of the proceedings as if they were an original defendant.

Maltese law provides a number of mechanisms through which related proceedings may be heard together.

A defendant may only bring a counterclaim in the same capacity in which they have been sued, and such counterclaim may only be directed against the plaintiff in the capacity in which the original claim was brought.

If a defendant institutes separate proceedings in respect of a claim connected with that of the plaintiff, the court may order that the two actions be heard simultaneously. Therefore, where an action in respect of the same claim is brought before another competent court following the institution of earlier proceedings, the subsequent action may be transferred to the court before which the earlier proceedings were instituted, thereby ensuring that both matters are heard before the same court.

Moreover, where two or more actions pending before the same court are connected by their subject matter, or where the decision in one action may affect the decision of the other action, the court may order that such actions be heard simultaneously.

22. Are third parties allowed to fund litigation in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

In principle, third-party funding of claims governed by

Maltese law is permitted, provided that the arrangement does not amount to champerty, as stipulations quotae litis are deemed void under Maltese law. While third-party litigation funding is not expressly regulated and there is no specific legislation governing such funding models, regulatory clearance may be required where funding is provided on an ongoing basis. Notwithstanding this, lawyers are prohibited from entering into funding arrangements with their clients or with third parties, including contingency fee and other conditional fee arrangements.

Within this framework, third-party funding may be used in connection with any type of claim and may be availed of by both plaintiffs and defendants at any stage of the proceedings. There are no prescribed minimum or maximum funding amounts, and no restriction on the types of costs that may be funded, which may include court registry fees, legal representation costs and other court-related expenses.

23. What is the main advantage and the main disadvantage of litigating international commercial disputes in your jurisdiction?

The main advantage of litigating international commercial disputes in Malta lies in the reliability and predictability of its legal framework. Malta operates within a 'mixed' or 'hybrid' legal system: its private law is founded on Roman law and codes modelled principally on the Code Napoléon, while English law has profoundly shaped its public, commercial, company, and maritime law. Since accession in 2004, Maltese law has been fully aligned with European Union law. As an EU Member State, Malta applies harmonised instruments governing jurisdiction, applicable law, and the recognition and enforcement of judgments, thereby promoting legal certainty and facilitating the cross-border enforceability of decisions.

Proceedings can also be conducted in English, which facilitates procedural convenience for international parties.

A further advantage lies in the range of interim remedies available to parties before and during proceedings. Maltese law provides for a comprehensive suite of precautionary warrants, including garnishee orders, warrants of seizure of movables, warrants of arrest of sea vessels and aircraft, warrants of prohibitory injunction, warrants of description, and warrants of seizure of a commercial going concern. These remedies, most of which are determined on an ex parte basis, enable parties to secure assets, preserve evidence, and protect their

position pending the determination of the substantive dispute, and are particularly valuable in cross-border matters where there is a risk of asset dissipation.

The principal drawback remains the duration of proceedings: as in many jurisdictions, the Maltese courts face a considerable caseload, and complex commercial disputes may take several years to reach final judgment.

24. What is the most likely growth area for commercial disputes in your jurisdiction for the next 5 years?

Several areas are expected to drive growth in commercial disputes in Malta over the next five years.

First, financial services and regulatory disputes are likely to continue expanding, driven by Malta's position as an EU financial services hub and the heightened supervisory activity of the Malta Financial Services Authority following the implementation of recent EU regulatory frameworks (including MiCA, DORA, and the AML package). Disputes involving licensed entities, enforcement actions, and challenges before the Financial Services Tribunal are anticipated to increase.

Second, construction and infrastructure disputes are expected to remain a significant growth area, reflecting the sustained pace of large-scale public and private development in Malta and the increasing use of international standard-form contracts (such as the FIDIC suite) in major projects. This is likely to translate into a continued rise in domestic and international arbitration, particularly seated in Malta or involving Maltese parties.

Third, technology, data protection, and cybersecurity-

related disputes are anticipated to grow in light of the increasing digitalisation of the Maltese economy, the maturing GDPR enforcement landscape, and the implementation of the NIS2 Directive and EU AI Act. Disputes concerning data ownership, IP rights in digital assets, and cyber incident liability are expected to feature more prominently.

Finally, international arbitration is expected to grow as a forum of choice for cross-border commercial disputes involving Maltese parties, particularly in the construction, energy, gaming, and financial services sectors, with parties increasingly opting for ICC and other institutional arbitration over domestic court proceedings.

25. What, if any, will be the impact of technology on commercial litigation in your jurisdiction in the next 5 years?

Technology is expected to have a wide ranging impact on commercial litigation in Malta over the next five years, primarily by improving efficiency, accessibility and case management, while also introducing new legal and evidential challenges.

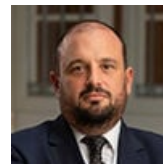
At the level of court administration, certain digital tools are already in place, including online case tracking and access to court records. The use of video conferencing technology for hearings, particularly for procedural matters, witness evidence from abroad, and expert testimony, gained traction during the pandemic and has been retained and expanded.

We know that the Court Services Agency is in the process of procuring a courts management information system which will replace the current system in place.

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