

## ARE THERE ANY COSTS?

Yes, the tariff to be paid is the same that applies to cases instituted in Malta before the Small Claims Tribunal. Filing Form A costs €40 and €7.20 for any service of documents to the other party.

## WHEN AM I UNABLE TO USE THIS PROCEDURE?

This Procedure cannot be used:

- (a) The status or legal capacity of natural persons;
- (b) Property rights arising out of a matrimonial relationship or out of a relationship deemed by the law applicable to such relationship to have comparable effects to marriage;
- (c) Maintenance obligations arising from a family relationship, parentage, marriage or affinity;
- (d) Wills and succession, including maintenance obligations arising by reason of death;
- (e) Bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- (f) Social security;
- (g) Arbitration;
- (h) Employment law;
- (i) Tenancies of immovable property, with the exception of actions on monetary claims; or
- (j) Violations of privacy and of rights related to personality, including defamation.'

For further assistance and information, you may contact European Consumer Centre Malta (ECC Malta) on the details provided.

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ECC Malta is hosted by the Malta Competition and Consumer Affairs Authority.

Help and advice  
for consumers  
in Europe



European Consumer Centre Malta



# PRACTICAL GUIDE TO THE EUROPEAN SMALL CLAIMS PROCEDURE

If you have a dispute with a trader in another EU Member State and the European Consumer Centre is unable to reach a solution or the issue does not fall within its remit, you may consider another remedy by filing a claim against the trader via the European Small Claims Procedure (ESCP).

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## PROCEDURE

The European Small Claims Procedure (ESCP) is another judicial tool to enforce consumer rights that could provide supplementary help to consumers when all amicable attempts to solve a dispute have failed. The main aim is to simplify, reduce lengthy and expensive judicial proceedings where there is a cross-border element. It applies to civil and commercial matters where the value of the claim does not exceed €5000 at the time when the claim form is received by the Court or Tribunal excluding all interest, expenses and disbursements. This procedure may be resorted to in all EU Member States except Denmark.

### HOW DOES IT WORK – 4 STEPS?

There are 4 forms in total; Form A is available from the Civil Registry of the Small Claims Tribunal or may be downloaded from the following website [https://ejustice.europa.eu/content\\_small\\_claims\\_forms-177-en.do](https://ejustice.europa.eu/content_small_claims_forms-177-en.do)

**Form A:** The Claim Form

**Form B:** Request by the Court or Tribunal to Complete and/or Rectify the Claim Form

**Form C:** The Answer Form

**Form D:** Certificate Concerning a Judgement in the European Small Claims Procedure

The ESCP is a written procedure. However, exceptionally the Court may request an oral hearing, you must fill in Form A in the language of the court or another language which the court is prepared to accept. In our case, it is the Maltese language, as well as another one written in a language that the trader understands.

**Step 1 - Filing the claim** – In **Form A**, the claimant shall include all the details and evidence accompanied by relevant documents where applicable to support his claim. Furthermore, the claimant must specify whether he is asking for payment of money and/or a non-monetary claim like delivery of goods, reimbursement or for related to a provision of the service. Once this process is concluded the claimant is required to lodge this complaint with the competent court.

If the claimant fails to complete Form A or there are certain details which need to be corrected, insufficiently clear or inadequate, then the court will send **Form B** asking the claimant to correct or complete the information provided. If the claimant fails to provide the required information within the specified time or the information provided is manifestly unfounded or inadmissible, the claim will be rejected.

**Step 2 - Notifying the other party** – Once the claim has all the required information, the court will send a copy of the claim together with supporting documents and Form C to the defendant. It is served to the defendant by post within 14 days of receiving the properly completed or rectified claim form.

**Step 3 - Defendant's reply** – The defendant then has 30 days from service to reply by means of **Form C** accompanied, where appropriate, by any relevant supporting documents.

**Step 4 - Decision and Recognition** – within 30 days from when the court is satisfied with the information provided, shall give judgement.

Once there is a judgement, it is recognized and enforced in the other Member State without any possibility of opposing its recognition in the Member State of enforcement.

At the request of one of the parties, the court will issue a certificate concerning the judgement given using **Form D** without any further expenses.

