



The Legal 500 & The In-House Lawyer
Comparative Legal Guide
Malta: Litigation

This country-specific Q&A provides an overview of
Litigation in Malta.

It will cover methods of resolving disputes, details of
the process and the proceedings, the court and their
jurisdiction, costs and appeals and opinions on future
developments.

This Q&A is part of the global guide to Litigation. For
a full list of jurisdictional Q&As
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GANADO
ADVOCATES

Country Author: Ganado Advocates

The Legal 500



Dr Louis Cassar Pullicino.
Managing Partner

lcpullicino
[@ganadoadvocates.com](mailto:lcpullicino@ganadoadvocates.com)

The Legal 500



Dr Antoine G. Cremona,
Partner

agcremona
[@ganadoadvocates.com](mailto:agcremona@ganadoadvocates.com)

The Legal 500

1. What are the main methods of resolving commercial disputes?

Commercial disputes are generally resolved through recourse to the Civil Courts of Malta however the Laws of Malta also provide for the establishment of specialised tribunals which are vested with the jurisdiction to determine commercial disputes of a specific commercial nature relating to a particular law. Additionally, if parties agree that any commercial dispute shall be settled in Arbitration. Maltese law fully registers arbitration awards delivered in domestic arbitration and Malta is a signatory of the New York Convention (1958).

2. What are the main procedural rules governing commercial litigation?

The main procedural rules governing commercial litigation are set out in the Code of Organisation and Civil Procedure. Commercial litigation in front of the superior courts of Malta are generally initiated by means of a sworn application to be filed by the applicant in the court registry. The sworn application would necessarily state the subject of the claim and the remedy sought by the applicant and must be confirmed on oath by the said applicant upon filing. Once the said sworn application is filed in the court registry it would be served on the respondent who would have twenty days from the date of service to file the sworn reply to defend the claim. Following the lapse of the twenty day time period, should the respondent fail to file reply he would be deemed contumacious.

Following the said preliminary written proceedings, the court hearings would proceed and the parties submit their evidence and have witnesses examined and cross-examined, either in front of the court itself or in front of a judicial assistance appointed by the court as the case may be. Following the conclusion of the evidentiary stage, the parties would proceed with making written and/or oral submissions and the Court would then proceed to adjourn the hearings for judgment.

As regards debt collection proceedings, Maltese law also provides for the possibility of filing special summary proceedings in front of the courts of Malta. Any claim for the recovery of a debt which is certain, liquid and due and not consisting in the performance of an act may be instituted by means of a sworn application whereby the applicant would request the courts to give a judgment without proceeding to trial on the basis that, to his knowledge, the respondent has no defence to his claim. The applicant filing the said sworn application must solemnly declare that in his belief there is no defence to the action in the sworn application. The said court application is then served on the respondent without delay and the court would appoint a date for hearing which shall not be earlier than fifteen days and not later than thirty days from the date of service of the sworn application on the respondent.

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

Commercial claims generally heard and decided by the Superior Courts of Malta.

The First Hall of the Civil Court is divided in four sections which are: the Family Section, the Voluntary Jurisdiction Section, the Commercial Section and a section vested with general jurisdiction which is styled as the First Hall of the Civil Court. The First Hall of the Civil Court is generally vested with competence to determine claims of a civil and commercial nature, however any applications falling within the competence of the Civil Court and which relate to matters regulated by the Companies Act (for example bankruptcy proceedings, insolvency proceedings, winding-up proceedings, and unfair prejudice proceedings) are to be assigned to the Civil Court (Commercial Section).

As regards monetary claims, the Civil Court and the Court of Magistrates (Gozo) in its superior jurisdiction are vested with competence to hear and determine all monetary claims of an amount exceeding fifteen thousand euro (€15,000).

The Court of Magistrates (Malta) and the Court of Magistrates (Gozo) in its inferior jurisdiction are vested with competence to hear and determine all monetary claims of an amount not exceeding fifteen thousand euro (€15,000) and not below than five thousand and one euro (€5,001). As explained above, all monetary claims of an amount not exceeding five thousand euro (€5,000) are heard and determined by the Small Claims Tribunal.

The Court of Appeal (presided over by three judges) hears and determines all appeals from judgments of the Civil Court and the Court of Magistrates (Gozo) in its superior jurisdiction. Appeals from the inferior courts of Malta shall also be heard by the Court of Appeal however for the purpose of such appeals the Court of Appeal would be constituted by one judge only.

Additionally the laws of Malta provide for the establishment of specialised tribunals which determine commercial disputes of a special commercial nature. In this regard include the following:

(a) The Financial Services Tribunal which is set up by the Malta Financial Services Authority Act (Chapter 300 of the Laws of Malta) and is vested with the competence to determine disputes in relation to decisions made by the Malta Financial Services Authority;

(b) The Competition and Consumer Appeals Tribunal which is set up by the Malta Competition and Consumer Affairs Authority Act and determines appeals from decisions, orders or measures of the Director General (Competition) and the Director General (Consumer Affairs) as provided in the Competition Act, the Consumer Affairs Act and any regulations made thereunder; and

(c) The Industrial Tribunal which is set up by the Employment and Industrial Relations Act and is vested with the competence to determine certain cases relating to a set of employment relations issues and all cases of alleged unfair dismissals from employment.

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

As regards proceedings in front of the courts of Malta, there is no set time-frame within which proceedings must be appointed for trial; therefore time-frames would entirely depend on the practices adopted by the Judge hearing the case. In practice however, following the filing of the court application Courts would normally adjourn the first hearing within six weeks from filing. The same would apply for proceedings instituted in front of the specialised tribunals.

As an exception to the above, special summary proceedings filed in the courts of Malta in connection with a debt collection claim that is certain liquid and due must be adjourned for hearing not earlier than fifteen days and not later than thirty dates following the service of the sworn application on the respondent.

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

All commercial proceedings in front of the courts of Malta and also in front of the above mentioned tribunals are heard in public and therefore any member of the public can attend all the hearings held before the courts. Similarly all documents and records of the proceedings are accessible to the public. However as an exception to this general rule, the Court or Tribunal may order that certain documents filed in the records of the proceedings be sealed and this if such documents contain confidential information or may otherwise be prejudicial to the parties in the proceedings if made public.

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

The applicable limitation period would depend on the nature of the claim itself. As a general rule, claims of a contractual nature are barred by the lapse of five years which would normally start to run from the date when the contractual obligation was due. However shorter limitation periods may be applicable for particular warranties and contracts.

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 set rules under Maltese law determining the applicable pre-action conduct requirements; however it has become customary for the courts of Malta to issue a decree following the appointment of the first hearing of the case imposing a deadline on the applicant to disclose all affidavits and documentary evidence within a set time-frame. An applicant may request the court for an extension of the said time-frame by means of a court application filed in the records of the case. Should a party fail to comply with the said court orders, the Court would have the power to prohibit the said party from submitting the said evidence.

8. How are commercial proceedings commenced? Is service necessary and, if so, is this done by the court (or its agent) or by the parties?

Commercial proceedings in front of the courts of Malta are generally initiated by means of a sworn application or application which must be filed by the applicant in the court registry. The said sworn application when filed against a person who is either domiciled or resident or present in Malta would need to be notified in accordance with the ordinary rules of Maltese procedure through the court registry. If following service the defendant does not file a sworn reply he would be deemed contumacious.

As regards defendants who are not present in Malta and are outside the jurisdiction of Malta but resident, domiciled or present in one of the Member States of the European Union, service would be effected through the designated transmitting agency in accordance with regulation 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extra judicial documents in civil or commercial matters (service of documents).

As regards defendants who are absent from Malta, not resident within any Member State of the European Union, or otherwise their address is unknown, upon a request made by the plaintiff to the court, the court would order the appointment of curators in order to represent the interests of the said respondent. The curators would receive the sworn application on behalf of the respondent and would be responsible with communicating with the respondent, serving him with the sworn reply and representing him in the proceedings.

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

In the case of disputes whereby a defendant is domiciled in a Member State of the European Union, Maltese Courts would apply the provisions of Regulation (EU) No. 1215/2013 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).

In the case of disputes where the defendant is not domiciled in a European Union Member State, national rules of jurisdiction are applied by Maltese Courts. In this regard, our Code of Organisation and Civil Procedure provides that the civil courts of Malta shall have jurisdiction to try and determine all actions concerning the following persons:

- (a) citizens of Malta, provided they have not fixed their domicile elsewhere;
- (b) any person as long as he is either domiciled or resident or present in Malta;
- (c) any person, in matters relating to property situate or existing in Malta;
- (d) any person who has contracted any obligation in Malta, but only in regard to actions touching such obligation and provided such person is present in Malta;
- (e) any person who, having contracted an obligation in some other country, has nevertheless agreed to carry out such obligation in Malta, or who has contracted any obligation which must necessarily be carried into effect in Malta, provided in either case such person is present in Malta;
- (f) any person, in regard to any obligation contracted in favour of a citizen or resident of Malta or of a body having a distinct legal personality or association of persons incorporated or operating in Malta, if the judgment can be enforced in Malta;
- (g) any person who expressly or tacitly, voluntarily submits or has agreed to submit to the jurisdiction of the court.

10. **How does the court determine what law will apply to the claims?**

When determining what law will apply to claims, Maltese Courts adhere to the

provisions of the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) which establishes uniform choice of law rules for the purposes of determining the law applicable to contractual obligations in civil and commercial matters throughout the European Union.

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

Where the demand is solely for the recovery of a debt, certain, liquidated and due, not consisting in the performance of an act; or for the eviction of any person from any urban or rural tenement, with or without a claim for ground rent, rent or any other consideration due or by way of damages for any compensation, up to the date of the surrender of the tenement, it shall be lawful for the plaintiff to request in the sworn application that the court gives judgment allowing his demand, without proceeding to trial. In so doing, the plaintiff shall state in his declaration that in his belief there is no defence to the action.

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

Precautionary warrants are interim measures granted by law to the creditor or holder of a real right to secure the future payment of his credit or other rights, whenever the latter has no title which would grant him immediate execution.

Therefore, any person, without the necessity of any previous judgment, may secure his rights by filing an application for the court to issue one or more of the following precautionary acts, provided the conditions prescribed by the law are complied with and provided further that the court issuing the warrant is satisfied, on a prima facie basis, that such warrant is necessary in order to protect the rights belonging to applicant. The interim measures that may be sought are the following:

(a) warrant of description;

(b) warrant of seizure;

(c) warrant of seizure of a commercial going concern;

(d) garnishee order;

(e) warrant of impediment of departure;

(f) warrant of arrest of sea vessels;

(g) warrant of arrest of aircraft;

(h) warrant of prohibitory injunction.

An application for the issuing of a precautionary warrant is to be made by means of an application confirmed on oath. Such application shall, under pain of nullity, contain:

- the origin and nature of the debt or claim; and
- when the right is a debt, or a demand which may be satisfied by the payment of a sum of money, the amount of such demand.

Once the application has been filed, the applicant is bound bring an action in respect of the claim within the time limit specified by law. This varies according to the precautionary act requested. If the applicant fails, without just cause, to bring such action, the effects of the warrant shall cease and the applicant shall be liable for all damages and interest.

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

At the time of filing, the sworn application may also include any such documents that

may be necessary in support of the claim. Once the court proceedings have begun, the plaintiff may further present any evidence that may additionally substantiate plaintiff's claim. Moreover, any party intending to produce a witness may file in the registry of such court an affidavit taken by such witness before a judicial assistant or any other person authorised by law to administer oaths, and a copy of such affidavit shall be served on the other party.

Once the sworn application is filed in the court registry, it is assigned to the judge, who then orders its notification to the counter party and who shall also sets a date for the first sitting. All causes shall be appointed for hearing within two months and sittings shall be held on a bi-monthly basis. There is no statutory period in which a cause needs to be heard and decided, however Article 195 (2)(a) (ii) of the Code COCP, provides that at the first hearing, the Court shall plan in advance, after consulting with the advocates of the parties, all the sittings to be held as well as the projected date of judgement and shall also direct the parties on what evidence and submissions it expects to be made at each sitting. Provided that the court shall, for grave reasons to be expressly stated in the records of the case or for reasons of urgency, call any other sittings and request any other evidence or submissions it deems fit.

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

There is no full and frank disclosure obligation on the parties and the possibility of discovery is rather limited and therefore, the documentary evidence is generally limited to that brought by the parties to corroborate their claim or defence as applicable. There are some specific rules of disclosure, for example, in the enforcement of IP rights whereby the court has wide powers to order the disclosure (subject to confidentiality) and conservation of evidence in the hands of the defendant or third parties (Enforcement of Intellectual Property Rights (Regulation) Act (Chapter 488, Laws of Malta)).

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).

Privileged documents: Advice and communications between clients and their lawyers are privileged and cannot be disclosed in court.

Actio ad exhibendum: Article 637 et seq of the COCP, provides for a specific stand alone action to demand the production of particular documents (actio ad exhibendum). This is in practice a limited remedy sought by the plaintiff solely to obtain the production of documents in the following instances:

(a) if such documents are the property of the party demanding the production thereof;

(b) if such documents belong in common to the party demanding their production and to the party against whom the demand is made;

(c) if the party demanding the production of the documents, although he is not the owner or a co-owner thereof, shows that he has an interest that such documents be produced by the other party to the suit;

(d) if the person possessing the documents, not being a party to the suit, does not declare on oath that, independently of any favour for either side, he has special reasons not to produce the documents;

(e) if the documents are public acts, or acts intended to constitute evidence in the interest of the public in general.

In all cases, the party demanding the production of the document must prove that the document is in the possession of the person from whom the production is demanded.

15. **How is witness evidence dealt with in commercial litigation**

**(and, in particular, do witnesses give oral and/or written evidence and what, if any, are the rules on cross-examination)?
Are depositions permitted?**

In terms of Article 160 of the COCP, any party intending to produce a witness in any proceedings before any court may, together with the sworn application or the sworn reply, as the case may require, file in the registry of such court an affidavit taken by such witness before a judicial assistant or any other person authorised by law to administer oaths, and a copy of such affidavit shall be served on the other party. Affidavits may also be produced throughout the course of the proceedings. The opposite party has the right to cross-examine a witness; and in such cross-examination leading or suggestive questions are allowed.

In cross-examination, a witness may only be questioned on the facts deposed in his examination, or on matters calculated to impeach his credit. When the party cross-examining desires to prove by the same witness any circumstance not connected with the facts deposed in the examination, he must, unless the court, for just cause, shall direct otherwise, produce such witness in due time and examine him as his own witness. When both the examination and cross-examination are concluded, no further questions may be put by either of the parties; but it shall be lawful for the court, or for the party with the permission of the court, to ask such questions as arise out of the answers given in the course of the examination or cross-examination. Moreover, the court may at any stage of the examination or cross-examination, put to the witness such questions as it may deem necessary or expedient.

Where any person whose evidence is required in a cause which is pending, is about to leave Malta, or is so infirm or advanced in years that he might die or become unable to give his evidence before the time when such cause will come up for trial, or is unable to attend the trial, the court may at any stage of the proceedings, commit the examination of such person to a judicial assistant in which case the oath may be administered by the judicial assistant. In this case, the questions put to the witness, together with his answers thereto, shall be taken down in writing, and the deposition shall be signed or marked by the witness himself. The deposition shall also be signed by the judicial assistant, and shall then be sealed by the Registrar, and filed in the record of the proceedings.

A deposition may also occur where a demand to that effect is made to the First Hall Civil Court by means of a note by all parties to the action, and also in the case where the court so orders. The deposition shall be signed or marked by the witness and countersigned by the judicial assistant who shall then transmit it to the court registrar.

16. **Is expert evidence permitted and how is it dealt with? Is the expert appointed by the court or the parties and what duties do they owe?**

Yes, where a person is called as a witness, that person's opinion on any relevant matter on which s/he is qualified to give expert evidence shall be admissible in evidence only if, in the opinion of the court, s/he is suitably qualified in the relevant matter. A person who is suitably qualified on account of his knowledge or experience, is competent to give expert evidence as to the law of any other foreign state, irrespective of whether he has acted or is entitled to act as an advocate, or in any judicial or legal capacity in that state.

An ex parte witness is normally appointed by a party before the proceedings and included in that party's declared list of witnesses. Where a witness is appointed by a party there is no particular procedure that must be followed. Such a witness need not necessarily be impartial although he must deliver testimony honestly, objectively and to the best of his ability.

Maltese courts are never bound by the opinion of the experts. However, a Maltese court does not usually disregard the opinion of a duly appointed judicial expert without good reason, especially when the expertise refers solely to technical issues.

The testimony of an ex parte expert witness is without prejudice to the court's power to appoint a referee for the purpose of examining witnesses on oath, taking down their depositions in writing and establishing the relevant facts.

No expert on Maltese law is admissible although this principle has unfortunately been somewhat revisited by erratic jurisprudence over the past years.

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

Article 229(1) of the COCP, lists those instances when the interim decision by court decree may not be challenged before the definitive judgement is delivered. These include but are not limited to:

- a. a decree allowing a request for urgency;

- b. any order or directive under the provisions of article 173 of the Code COCP pertaining to orders in camera with respect to matters of procedure;

- c. a decree allowing or disallowing a request for the adjournment of a cause;

- d. a decree allowing or disallowing an objection to the competency of a witness;

- e. a decree allowing or disallowing a request to put questions to a witness;

- f. a decree allowing or disallowing a request for the production of certain documents under article 637 of the COCP except if the decree allows or disallows the production of a document which is an exempt document in terms of article 637(4) COCP;

- g. the appointment of a referee;

- h. a decree allowing or disallowing the expunging of a document from the records of the case;

- i. a decree disallowing a request for stay of proceedings.

In terms of Article 229(2) of the COCP, an appeal from the following interim decrees may be entered before the definitive judgment:

- a. a decree refusing the appointment of additional referees under Article 674 COCP;
- b. a decree transferring an action for trial to another court;
- c. a decree refusing the joinder of a third party to the cause;
- d. a decree disallowing a request for urgency;
- e. a decree ordering the stay of proceedings;
- f. a decree that orders the production of a document which is an exempt document in terms of article 637(4).

Article 229 (3) provides that an appeal from any other interlocutory decree not expressly provided in Article 229 (1) and (2) may be entered before the definitive judgment only by special leave of the court hearing the case, to be requested by an application to be filed within ten days from the date on which the decree is read out in open court. The court, after hearing the parties, may grant such leave of appeal if it deems it expedient and fair that the matter be brought before the Court of Appeal before the definitive judgment and the time limit for the filing of such an appeal shall commence to run from the date of the said decree.

In the case of any decree under sub-articles (2) and (3) above, provided that any application for an appeal has not been filed, the aggrieved party may file an application within six days from the date on which the decree is read out in open court, requested the court which delivered the decree to reconsider its decision. The application is contain full and detailed reasons in support of the request and is to be served on the other party who shall have the right to file an answer thereto within six days from the date of service.

The period for appeal from a decree before a definitive judgment shall be six days from the date on which the decree is read out in open court. Where an interlocutory decree has been given in camera, it shall for the purposes of the calculation of any time therein established, be deemed to have been read out in open court on the date of the

first sitting in the case immediately after the decree was given in camera by the court.

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

Generally, if there is a discrepancy between the provisions under the COCP and the regulations of the European Union (Regulation (EC) 44/2001 and subsequently Regulation (EU) 1215/2012) in relation to the enforcement of foreign judgements, the latter shall prevail and the provisions in the COCP shall only apply where they are not inconsistent with the provisions of such regulations or in matters not falling within the ambit of such regulations.

With respect to judgement delivered by a foreign court outside the EU, any judgment delivered by a competent court constituting a res judicata may be enforced by the competent court in Malta, in the same manner as judgments delivered in Malta, upon an application containing a demand that the enforcement of such judgment be ordered except in the following circumstances:

a. if the judgment sought to be enforced may be set aside on any of the following grounds:

1. where the judgment was obtained by fraud on the part of any of the parties to the prejudice of the other party;
2. where the sworn application was not served on the party cast;
3. where any of the parties to the suit was under legal disability to sue or be sued, provided no plea there anent had been raised and determined;
4. where the judgment was delivered by a court having no jurisdiction;
5. where the judgment contains a wrong application of the law;
6. where judgment was given on any matter not included in the demand;
7. where judgment was given in excess of the demand;
8. where the judgment is conflicting with a previous judgment given in a suit on the same subject-matter and between the same parties, and constituting a res judicata, provided no

plea of res judicata had been raised and determined;

9. where the judgment contains contradictory dispositions;
10. where the judgment was based on evidence which, in a subsequent judgment, was declared to be false or which was so declared in a previous judgment but the party cast was not aware of such fact;
11. where, after the judgment, some conclusive document was obtained, of which the party producing it had no knowledge, or which, with the means provided by law, he could not have produced, before the judgment;
12. where the judgment was the effect of an error resulting from the proceedings or documents of the cause.

The judgment ordering the enforcement of another judgment delivered by a court outside Malta, upon being registered in the Public Registry Office, shall create as from the day of registration a hypothec in regard to the debt judicially acknowledged by the judgment the enforcement of which is ordered.

If a judgment has been obtained in a superior court of the UK, the judgment creditor can apply to the Malta Court of Appeal within 12 months (a longer period may be allowed by the Court of Appeal) to have the judgment registered in one of the superior courts in Malta (British Judgments (Reciprocal Enforcement) Act (Chapter 52, Laws of Malta)). On such an application, the Court will, at its discretion, order the judgment to be so registered. Reciprocal enforcement of maintenance orders is also provided for under the Maintenance Orders (Reciprocal Enforcement) Act 1974 (Chapter 242, Laws of Malta).

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?**

Costs shall be taxed and levied in accordance with the Tariffs in Schedule A annexed to the COCP and with regulations made by the Minister responsible for justice. The sum depends on the nature of the claim, the quantum of damages being sought (if any) and the type of act being filed. If costs are being sought by the applicant, the sworn

application is to include the words “with costs”.

The normal rule in awarding costs is that the unsuccessful party will be ordered to:

- a. Pay the costs of the proceedings.
- b. Pay the costs of the party in whose favour the case was decided.

Courts can take other factors into account, such as the willingness of the unsuccessful party to negotiate and even pay up the non-contested part of the claim. The court may also apportion the costs to reflect contributory responsibilities. It is not possible to recover legal fees in excess of those set out in the Tariff.

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

To bring an action a claimant must show that he has a juridical interest in the case. A number of claimants can bring an action collectively provided each claimant must demonstrate his particular interest in the case.

However, under the Collective Proceedings Act, Chapter 520 of the Laws of Malta, collective proceedings may be brought under the Competition Act, the Consumer Affairs Act and the Product Liability Act by a class representative in the manner outlined in the Collective Proceedings Act.

More recently, in virtue of the Arbitration for Financial Services Act, Chapter 555 of the Laws of Malta, the Arbitrator may, if he thinks fit, treat individual complaints made by aggrieved investors against financial services licence holders with the Office together, provided that such complaints are intrinsically similar in nature.

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

Any person who shows to the satisfaction of the court that he is interested in any suit already pending between other parties, may, on an application, be admitted as a party to the suit at any stage thereof, whether in first or in second instance; but such admission shall not suspend the proceedings of the suit.

A third party may also, by decree of the court, at any stage of the proceedings before the judgment, be joined in any suit pending between other parties in a court of first instance, whether upon the demand of either of such parties, or without any such demand. The third party joined in the suit shall be served with the application, whether sworn or not, and shall for all purposes be considered as a defendant; and as such he shall be entitled to file any written pleading, raise any plea and avail himself of any other benefit which the law allows to a defendant; and the claim may, according to circumstances, be allowed or disallowed in his regard, as if he were an original defendant.

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

Parties bringing or defending a claim before the Maltese Courts can obtain third party funding to pay for their legal costs although this is not expressly regulated. However, lawyers are prohibited from entering into funding arrangements with their clients or third parties.

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



Whilst litigating international commercial disputes in Malta may take long due to court delays, costs are very limited when compared to other jurisdictions.

24. **What, in your opinion, is the most likely growth area for disputes for the next five years?**

In line with Malta's Digital Malta Strategy to develop a market for digital and financial technology, Malta has already recently introduced the Civil Court (Commercial Section) which is competent to hear cases relating to the Companies Act. Within the next five years, Malta is set to focus its resources on developing an attractive jurisdiction where commercial disputes relating to digital and financial technology can be settled.

25. **What, in your opinion, will be the impact of technology on commercial litigation in the next five years?**

Malta is already focused on implementing an online system allowing the possibility of filing court applications in the Commercial division online via the court registry website with the aim of promoting Malta as a convenient and efficient jurisdiction where commercial disputes can be settled. Within the next five years, we believe that technological advances will help reduce time and costs related to physical filing of court documents and service of court documents. In this respect the jurisdiction is lagging behind.