



## EUROPEAN SMALL CLAIMS PROCEDURE

ADJUDICATOR  
AVV. DR. ILONA SCHEMBRI  
LL.B., LL.D., LL.M. (Lond.), Ph.D. (Birm.)

**Today, Monday 7 October 2024**

**Claim number: 16/2020 IS**

**PAUL DEBONO (HOLDER OF MALTESE IDENTITY CARD NUMBER 361260 (M))**

*VERSUS*

**PLATTEN SAILING (ULRICH PFISTER)**

**THE TRIBUNAL,**

Having seen the Notice of Claim filed by the plaintiff, who is the claimant in these proceedings, in virtue of Regulation (EC) 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, and as duly amended, filed on 16 September 2020 whereby the claimant claimed that he chartered a yacht from the defendant to go on holiday in Cuba during the year 2020;

Having also seen that the defendant was duly served with the acts of the case on 13 January 2021 and simply refused to take the copy of the claim (page 109);

Having considered all evidence brought forward by the respective parties;

Having also considered that the Tribunal can adjudicate this case on the basis of the evidence produced and that therefore no oral hearing needs to be fixed.

## Considers

It is uncontested that the plaintiff chartered a yacht from the defendant to holiday in Cuba during the year 2020.

The plaintiff's affidavit, found on pages 10-13, includes a detailed description of how the defendant company provided him with services from the moment the yacht was chartered to the time he left Cuba.

However, the plaintiff, on page 13 of the affidavit, said that *"I am demanding full refund of the charter fee (Euro 4700.00) plus flight expenses we incurred from Cayo Largo to Cienfuegos, (Euro 495.00) and marina and mechanic fees of Euro 290.00, I also expect the refund to be paid back (Euro 3000.00) that I left as deposit with Omar in Cienfuegos. The total amounts to Euro 8485.00. Nevertheless, we are ready to settle for the maximum amount that this Tribunal can settle."*

The Tribunal notes that it is uncontested that Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, as amended by Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European Order for Payment procedure stipulates in Article 2 that *"This Regulation shall apply, in cross-border cases as defined in Article 3, to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed EUR 5 000 at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements."* Since the plaintiff indicated in the affidavit above-mentioned an amount exceeding five thousand Euros (Eur 5,000.00), such an action falls outside of the jurisdiction of this Tribunal. Therefore, this Tribunal does not have the authority to decide the case's merits. There is a clear mention of this principle not only in the Regulation, but

also on the website of the European Union<sup>1</sup> as well as in its published document titled 'A Guide for Users to the European Small Claims Procedure A short introduction to the main practical aspects of the use of the procedure based on the Regulation.'<sup>2</sup>

Although the plaintiff stated in the above-mentioned affidavit that "*we are ready to settle for the maximum amount that this Tribunal can settle,*" it is not the Tribunal's responsibility to decide which amount should be decided, and which amount should be left undecided, and it was the plaintiff's responsibility to clearly state which amounts he desired the Tribunal to decide.

The Tribunal will not discuss the applicable law, jurisdiction, or detailed facts of the case, as at face value, it lacks authority to decide such a case.

### **Decide**

For the reasons mentioned above, the Tribunal rejects the plaintiff's claim in line with the rationale provided above.

The judicial costs associated with these proceedings shall be borne by the plaintiff.

**Avv. Ilona Schembri**

Adjudicator

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<sup>1</sup> European Union, 'European Small Claims Procedure', <European Small Claims procedure: Cost and process - Your Europe (europa.eu)> (accessed 13 September 2024)

<sup>2</sup> European Commission, 'A Guide for Users to the European Small Claims Procedure A short introduction to the main practical aspects of the use of the procedure based on the Regulation', <European Small Claims procedure: Cost and process - Your Europe (europa.eu)> (accessed 13 September 2024)