

EUROPEAN SMALL CLAIMS PROCEDURE

**ADJUDICATOR:-
DR. ANNA MALLIA, LL.D.**

Date:- 21st June, 2018.

Claim no:-8/2017AM3.

Alberto Balatti Mozzanica

Vs

Canyon Bicycles GmbH

The Tribunal,

Having seen the Claim Form (Form A) filed by the claimant on the 8th November 2017 whereby he requested the tribunal to declare the termination and dissolution of the contract without any payment due to Canyon of €3474.21 with the right of the respondent company to collect the faulty bike in Malta at his home address with fifteen (15) calendar days from the decision with the packaging and delivery costs at the charge of the Respondent Company; and to order the respondent company to pay the claimant the sum of one thousand five hundred euros (€1500) as part of the damages costs and troubles incurred by the claimant for eighteen (18) months because of the faulty bike and the lack of assistance from the respondent company or alternatively to order the respondent company to replace the faulty bike with the new one of 2017 or 2018 products line (being the production line and parts of 2015 and 2016 affected by the know defects and declared by the respondent company itself having the same or superior specifications and collect the old faulty one at their full expenses. the claimant asked that the price is reduced to €1974.21 resulting from the original

full price of €3474.21 reduced by €1500 as part of the damages, costs and troubles incurred by claimant for eighteen months because of the faulty bike and the lack of assistance from the respondent company.

Having seen that the Answer Form (Form C) which was filed by the Respondent Company without paying the registration fees.

Having seen the decree given by this Tribunal dated 28th May 2018 by virtue of which the Tribunal declared that the reply by the respondent company is inadmissible in view of the fact that the registry fees were not paid by the respondent company.

Considers:-

That the claimant company is demanding the termination and dissolution of the contract and the payment of damages or alternatively the replacement of the faulty bike and damages, the Tribunal notes that it has no competence to decide the demands of the claimant since they do not fall within the remit of article 3(2) of Chapter 380 of the Laws of Malta. Article 3(2) of Chapter 380 of the Laws of Malta limits the competence of this Tribunal as follows: Art 3(2) - Subject to subarticle (5), the Small Claims Tribunal shall have jurisdiction to hear and determine only all money claims of an amount not exceeding five thousand euro (€5,000). Subarticle (5) mentioned in article 3(2) deals with issues concerning immovable property and does not therefore apply to the case in question.

The competence of the Tribunal can be raised ex officio .

In his claim the plaintiff is demanding termination and dissolution of the contract and damages ensuing there from or alternatively replacement of the faulty bike and damages. The Tribunal has no competence to decide on these issues as its competence is limited to payment of sums allegedly due.

Therefore the Tribunal decides that it has no competence to decide the case and the requests of the claimants are hereby being rejected.

All expenses in this case are to be borne by the Claimant.

Dr Anna Mallia, LL.D.

Adjudicator

