North Macedonia


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I. LITIGATION

1 Preliminaries

1.1 What type of legal system has your jurisdiction got? Are there any rules that govern civil procedure in your jurisdiction?

North Macedonia is part of the civil law legal system. The civil procedure in the country is governed by sets of legal norms found in various acts, such as:

- Law on Civil Procedure;
- Law on Civil Non-Contentious Procedure;
- Law on Enforcement;
- Law on Notary;
- Law for Securing Claims; and
- Law on Courts.

1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

The judicial system in North Macedonia is structured in three instances, and the judicial power is exercised by the:

- Basic Courts;
- Appellate Courts; and
- Supreme Court of Republic of North Macedonia.

Additionally, when a dispute related to administrative procedure arises (whether arising out of a decision adopted by an administrative body or an agreement with an administrative body), the Administrative Court is competent to settle the dispute in the first instance and the Higher Administrative Court in the second instance. In cases when non-regular legal remedies to a final decision of the Higher Administrative Court are allowed, the Supreme Court is competent to decide upon the issue.

The Basic Courts are established for one or more municipalities whose territory is determined by the Law on Courts. The Basic Courts, according to their jurisdiction, shall adjudicate as a first degree court (first instance) and they are established as courts of primary jurisdiction and courts with expanded jurisdiction. Within the courts of first instance with extended jurisdiction, there are specialised court departments based on types of disputes (civil and commercial matters, labour disputes and other more specific types of disputes within the scope of work of the courts).

A notice of appeals is allowed to be submitted against the decisions of the Basic Courts to the Appellate Court. The Appellate Courts are established for the territory of several Basic Courts, and they act as a court of second instance. The Appeals Court may either confirm the decision of the Basic Court (in which case it would be considered as final) or may overturn the appealed judgment and return the case to the first instance court for a retrial. The Higher Administrative Court acts as an appellate court in administrative disputes.

The Administrative Court is established and exercises judicial power over the whole territory of the Republic of North Macedonia. The Administrative Court has jurisdiction to rule on the legality of individual acts adopted by state authorities and other issues.

The Supreme Court of the Republic of North Macedonia is established and exercises judicial power over the whole territory of the Republic of North Macedonia, and is competent to decide upon extraordinary legal remedies in the third instance against final decisions adopted by the Appellate Courts or final decisions adopted by the Higher Administrative Court.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

The main stages in a civil proceeding are:

- Filing an action – statement of claim (lawsuit)
  The lawsuit should contain a specific claim regarding the main issue and the secondary claims, facts on which the plaintiff has based the claim, evidence supporting the facts, as well as other data that each filing must have according to the law.
- Preparations for trial
  Preparations for trial are made after the statement of claims (lawsuit) is received. These preparations involve: previous review of the lawsuit; delivery of the lawsuit to the defendant for response; holding a preliminary hearing; and scheduling a main hearing. During the preparations for the main hearing, the parties may submit filings stating the facts which they intend to present at the main hearing, as well as the evidence whose disclosure they intend to propose. There is no possibility to submit evidence or other evidence after the closing of the preliminary hearing.
- Trial
  The judge (or the council) makes the final decision in which evidence will be taken in consideration and presented in the trial. During the trial, the parties present their arguments and then elaborate and present the evidence they have submitted in the preparations phase; this evidence is relevant to the case and supports their statements.
- Judgment
  The court decides with a judgment about the claim which concerns the main issue and the secondary claims of the

lawsuit. If several claims exist, the court, as a rule, will decide on all of these claims with a single judgment. For some claims, the court will decide with a solution.

- Legal remedies

  In the Macedonian legal system, there are two types of legal remedies: Regular; and Extraordinary.

The parties may file a notice of appeal against a judgment that was passed in first instance (regular remedy) within 15 days from the day of delivery of the transcript of the judgment, if no other time limit is determined by this law (for various disputes there are shorter time limits for submitting a notice of appeal).

The parties may file a notice for revision against a final judgment adopted in second instance within 30 days from receipt of the transcript of the judgment (extraordinary legal remedy). A revision can be declared depending of the value and/or the type of the claim.

A procedure that is closed with a final court decision can be repeated upon proposal from a party if some conditions/reasons prescribed by the law are met, within 30 days from the day the party found out the reason for repetition of the court procedure.

The timeframe depends of the complexity of the proceedings. There are prescribed timeframes that each court must act on, although unfortunately those timeframes are rarely met.

Macedonian laws prescribe a faster method to obtain an enforceable title in pecuniary claims based on a so-called authentic deed (веродостојна исправа). The statement of claims in this case is submitted in front of a notary who examines the statement of claim and the authentic document that is attached thereto and adopts a payment order. The payment order is delivered to the opposing party and, if they do not object, the payment order acquires capacity of an enforcement deed.

1.4 What is your jurisdiction's local judiciary's approach to exclusive jurisdiction clauses?

According to the Law on Civil Procedure, if the law does not specify the exclusive jurisdiction of a court, the parties may agree to be tried in a first instance court which does not have local competence, provided that that court is competent for the type of the claim.

Therefore, an exclusive jurisdiction clause is not valid if the law stipulates exclusive jurisdiction of another court for the respective dispute. Moreover, exclusive jurisdiction clauses are considered as not valid if the plaintiff initiates a procedure for the adoption of a payment warrant based on an authentic document.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

The costs of the civil court proceeding are prescribed as so-called 'litigation expenses'. Such expenses are made up of the expenditures that were made in connection with the court procedure.

The litigation expenses include the following:

- court fees – the amount of the court fee is prescribed with the Law on Court Fees and it is determined based on the value and/or the type of the claim (as a lump sum or a percentage of the claim);
- attorney fees – the amount of the attorney fees (so-called 'award') are prescribed with the attorney's tariff, and are determined based on the value and/or the type of the claim;
- other expenses of the proceeding – such as: costs for arranging expert witness, travel costs, translation costs and so on.

Each party initially covers the expenses which are caused by its actions. When the party proposes a disclosure of evidence, it is obliged upon an order from the court to deposit in advance the amount which is necessary to cover the expenses which will arise on the occasion of the disclosure of the evidence.

However, the party which completely loses the case is obliged to compensate the litigation procedure costs to the opposing party and its involved person.

There are no formal rules on costs budgeting in Macedonia.

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are contingency fee/conditional fee arrangements permissible?

There are no prescribed rules about funding litigation in Macedonia.

Based on the attorney's tariff, the attorney and the client (party in a proceeding) can freely agree on the attorney fee (award) and expenses, as well as the method of their remuneration. The payment of the attorney fees for court proceedings must be in accordance with the prescribed amounts with the attorney's tariff.

Contingency fee/conditional fee arrangements are not limited by the law, but they cannot be calculated as a percentage of the amount awarded by the court. Namely, the Supreme Court of Republic of North Macedonian brought a sentence (legal opinion) that the attorney fees cannot be paid as a percentage of the awarded claim.

1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

Macedonian laws authorise a creditor to assign a claim to a third party (contractual assignment of claims: so-called 'cession'). The only constraints prescribed by the law for concluding a cession are if the transfer of the claim is forbidden by the law, or which is related to the party's person. The cession shall have no effect if the creditor and the opposite party agreed that the claim would not be able to be assigned to a third party or that the claim would not be able to be assigned to a third party without consent from the opposite party.

Third non-party funding of a litigation proceeding is not directly prohibited by the Macedonian positive laws, so the party involved in the proceeding may agree funding with a third party at its own discretion.

1.8 Can a party obtain security for/a guarantee over its legal costs?

In general, a party cannot obtain a security for/a guarantee over its legal costs in court proceedings.

The exception from that rule is if a foreigner files a claim, then upon the defendant's request, a security deposit for litigation expenses must be made by the foreigner. This rule applies if the foreigner is an individual residing outside Macedonia.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

In general, Macedonian laws do not set out any particular formalities with which the plaintiff must comply prior to filing a claim (lawsuit).

There is an exception from the above in commercial disputes, where the claim is a value not exceeding MKD 1,000,000 (approximately EUR 16,260) where the plaintiff must try to resolve the claim through mediation before submitting the claim before the court. When submitting the lawsuit, the plaintiff is obliged to submit written evidence that the mediation failed, or the lawsuit will be rejected by the court.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

The limitation periods for bringing proceedings before civil courts, for different classes of claim, are prescribed with by the Law on Obligation.

The general limitation period is five years, unless another limitation period is provided by the law. However, shorter time limits apply to claims in specific cases: the limitation period for claims arising from contracts is three years; for damages, three years; for damages arising from criminal offences, the limitation period is longer in accordance with the Criminal Law; and for claims arising from the delivery of electrical and thermal energy for household, telephone and radio use is one year, and so on.

The claim, i.e. an obligation, becomes time-barred when the time period prescribed by the law in which the creditor party can request performance has passed (statute of limitations). The limitation period due to the statute of limitations shall begin to run on the first day following the day when the creditor party was entitled to request performance of the claim, i.e. obligation. The limitation period comes into effect when the last day of the time period provided by the has law passed.

The time limits are treated as a substantive law issue. However, if a debtor party does not invoke the statute of limitations, a court cannot take limitation into consideration (*ex officio*).

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Civil proceedings are commenced by the filing of a statement of claim (lawsuit) to the court. Upon checking the formality of the lawsuit, that it is in accordance with the law (as determined by a prior examination), the court will serve the lawsuit to the defendant.

Private individuals are served at their registered address of residence, whereas legal entities are served at the company seat as registered in the trade register. The law prescribes the possibility for serving the lawsuit by e-mail, but in practice, this is rarely done.

The document is deemed as served on the date on which the document is physically delivered to the recipient. The service of the document, outside Macedonian jurisdiction, is done with the assistance of the Ministry of Foreign Affairs.

3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

Pre-action interim remedies are available in accordance with the Law for Securing Claims. Namely, a creditor can apply for an interim measure for securing his claim (monetary or non-monetary) to the relevant court prior to initiating a court procedure by submitting a request for issuance of an interim measure and evidence that the criteria/condition prescribed by the law are met.

The main criteria that the creditor must prove before the court prior to the issuance of the requested interim remedy are as follows:

- to make the existence of the claim probable; and
- the danger that, without such an interim measure, the debtor would suspend or significantly impede the collection of the claim by alienating, concealing, or otherwise disposing of his property or assets.

Both criteria must be cumulatively fulfilled.

3.3 What are the main elements of the claimant's pleadings?

The plaintiff's pleadings (fillings) should contain a specific claim regarding the main issue and the secondary claims, facts on which the plaintiff has based the claim, evidence supporting the facts, as well as other data that each filing must have.

The filings must be clear and they must contain everything that is necessary in order to be able to act upon them. They must especially contain: the name of the court; the name, profession and residence, and place of dwelling of the parties; the firm and the seat of the legal entity, and of their legal representatives and authorised agents, if they have them; the legal matter of the case; the contents of the statement; and the signature of the submitting person. The party in the filing is obliged to state its unique registry number and tax number. If the statement contains some request, the party must state in the filing the facts on which the request is based, as well as evidence, when this is necessary.

If the filing is not clear or if it does not contain what is necessary in order to be able to act upon it, the court will instruct the submitting person to correct the filing; and if the filling is not corrected by the person or the understandable filling is submitted by a lawyer, the court will dismiss the filling.

3.4 Can the pleadings be amended? If so, are there any restrictions?

The plaintiff may alter (amend) his pleading before the first hearing of the trial. The alteration of the pleading is a change of the identity of the claim, an addition to the existing claim, or the raising of some other claim in addition to the existing one. If the plaintiff alters the pleading because of the circumstances which arose after the pleading was filed, or because of a request from the same factual relationship or with regards to another object or amount of money, the defendant cannot oppose such an alteration.

The pleading is not altered if the plaintiff changed the legal basis of the pleading, if he/she decreased the claim, or if he/she changed, supplemented or corrected some individual assertions, so that the claim has not been changed herewith.

After the pleading is delivered to the defendant, consent from the defendant is needed to alter (amend) the pleading, but also when the defendant is opposed, the court may permit alteration if it deems that that would be useful for the final resolution of the relations between the parties. Consent from the defendant for the alteration of the pleading will be considered to exist if he/

she enters the discussion about the main issue after the altered pleading, and previously he/she had not opposed the alteration.

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

The plaintiff may withdraw the pleading without consent from the defendant before the defendant enters the discussion on the main issue. The pleading may also be withdrawn later, up to the conclusion of the trial, if the defendant agrees to that. If the defendant, within eight days from the day of notification of the withdrawal of the pleading, does not give any statement about this, it will be considered that he/she agrees with the withdrawal.

The pleading that was withdrawn will be considered as not even having been filed, and it may be filed again.

The plaintiff who withdraws the pleading is obliged to compensate the opposing party for the litigation costs, except if the withdrawing of the pleading came immediately after the fulfillment of the claim by the defendant.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

In the response to the claim (statement of defence), the defendant may plead the claims and arguments in the lawsuit, and propose evidence that support those pleadings. If the defendant contests the claim, then in his response the defendant is obliged to state the facts on which his pleadings are based upon and the evidence supporting those facts.

In the statement of defence, the defendant is allowed to bring counter-claims and set-off defence.

The counter-claims may be filed on the first hearing of the trial at the latest, and only if the counter-claims are in connection with the claim or can be settled if they are to determine some right or some legal relationship, the existence or non-existence of which will change the court's decision upon the plaintiff's claim. Before the conclusion of the trial, a counter-claim may be filed only with the consent of the plaintiff, and without his/her consent only when the court allowed the alteration of the claim.

4.2 What is the time limit within which the statement of defence has to be served?

The defendant is obliged to give a written response to the lawsuit within a time limit determined by the court, which cannot be shorter than 15 days or longer than 30 days from the date of receipt of the lawsuit.

As an exception from the above rule (time limit), for various cases there are shorter time limits for filling a statement of defence (for example, eight days for labour disputes and for disturbance of possession).

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

The person against whom a lawsuit has been filed, as the holder of some object or beneficiary of some right, and who claims that he/she holds the object or executes the right on behalf of a third person, may – at the preparatory hearing at the latest, and if this is not held, then at the first hearing of the trial and before entering the discussion on the main issue – call this third person (predecessor), through the court, to enter in his/her stead as a party in the litigation (naming a predecessor).

Consent from the plaintiff for the predecessor to enter the litigation instead of the defendant is necessary only if the plaintiff raises such claims against the defendant which do not depend on whether the defendant holds the object or executes the right on behalf of the predecessor. If the properly summoned predecessor does not come to the hearing, or if he/she refuses to enter the trial, the defendant may not refuse to join the litigation.

4.4 What happens if the defendant does not defend the claim?

If the defendant does not file a statement of defence in the determined time limit, the court shall reach a judgment with which it accepts the claim (judgment due to non-filing of a statement of defence) if the following conditions are fulfilled:

1) if the defendant was properly served with the lawsuit and the request for filing a statement of defence;
2) if the grounds of the claim are implied from the facts stated in the lawsuit;
3) if the facts which are the basis of the claim are not contrary to the evidence that the plaintiff has submitted or to the generally known facts; and
4) if there are no generally known circumstances from which it is evident that the defendant due to justified reasons was not able to file a statement of defence.

A judgment due to the non-filing of a statement of defence shall not be reached if the court finds that it is a claim that the parties cannot dispose, although the conditions above have been fulfilled.

4.5 Can the defendant dispute the court's jurisdiction?

The defendant can dispute the court's jurisdiction. On the occasion of an objection from the defendant, the court may proclaim itself as locally non-competent if the objection was submitted at the latest at the preparatory hearing in court, or if this was not held, until the defendant enters into the discussion of the main issue at the first hearing for the trial.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

A third party, which has a legal interest for one of the parties to succeed in a litigation going on between other persons, may join the litigation. The involved third party may enter the litigation during the whole procedure, until the decision for the claim becomes final, as well as in time limits prescribed for submission for an extraordinary legal remedy.

The involved third party may give the statement for entering the litigation at the hearing or with a written filing, and the third party must prove their legal interest in joining the procedure.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

If several litigations are underway at the same court between the same persons, or where the same person is the opposing party

of various plaintiffs or various defendants, all of these litigations may be joined by a decision of the council for the purpose of joint discussion if this would speed up the discussion or decrease the expenses. The court may reach a joint judgment for all the joined litigations.

5.3 Do you have split trials/bifurcation of proceedings?

The court has the right to determine separate discussions to be held for the specific claims from the same lawsuit, and after the completion of the separate discussions, it may make separate decisions on those claims.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

The allocation of the cases before the competent civil court depends of the type and the value of the claim. The allocation of the cases in the competent court between the judges is done randomly, according to the time when the statement of claim was filed and the yearly allocation of work at the court.

6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

In the civil procedure, the court shall decide within the limits of the claims that are determined in procedure. The court cannot refuse to decide upon a claim which is under its jurisdiction.

The president of the council, as well as the individual judge, manages the trial, interrogates the parties, discloses evidence, gives the floor to the members of the council and to the parties, their legal representatives and authorised agents, and announces the decisions of the council. The duty of the president of the council, as well as the individual judge, is to take care that the subject of the case is reviewed comprehensively, but the procedure should not be delayed because of this so that the trial can be completed at one hearing, if possible.

If a party objects to some measure by the president of the council or the individual judge which refers to the management of the trial, then the council will decide on this objection. In this case, there is no costs consequence for the party.

6.3 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court's orders or directions?

The court has an obligation to insist on having the procedure conducted without delay, within a reasonable time limit and with minimum expenses, and to prevent any abuse of the rights that the parties are entitled to in the procedure.

A fine from EUR 700 up to EUR 1,000 in the MKD equivalent amount shall be imposed on a party individual (party, involved person and responsible person of a legal entity), and a fine from EUR 2,500 up to EUR 5,000 in the MKD equivalent amount shall be imposed on a party legal entity, which has abused the rights it is entitled to in the procedure. Also, the court can impose a fine on the representative (authorised agent or legal representative) if he/she is responsible for abusing these rights.

6.4 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

Usually, the court examines the formal requirements after the receipt of the statement of claim and before its delivery to the defendant.

The court may determine that it is not competent to resolve the dispute, but instead some other domestic authorised body, it will declare itself as non-competent, revoke the actions enforced during the procedure, and dismiss the claim. Also, when the court determines during the procedure that a court in the Republic of North Macedonia is not competent to resolve the dispute, it will declare itself as non-competent, *ex officio*, it will revoke the actions enforced during the procedure and dismiss the claim, except in the cases when the competence of the court depends on the consent from the defendant, and he/she has given his/her consent.

When the court determines that the person appearing as a party may not be a party in the procedure, and if this defect cannot be removed, the court will dismiss the claim.

In the course of the litigation, a new litigation between the same parties may not be initiated in regard to the same claim, and if such litigation is initiated, the court will dismiss that claim. The court will take care, *ex officio*, during the entire procedure that the matter is resolved with a final judgment, and if it determines that a procedure has been initiated for a claim for which a final judgment had been reached, it will dismiss the claim.

If the filing is not understandable or if it does not contain what is necessary in order to be able to act upon it, the court will dismiss/strike out the filing.

6.5 Can the civil courts in your jurisdiction enter summary judgment?

Summary judgment is not prescribed by Macedonian positive laws.

The Law on Civil Procedure prescribes other types of judgments. When, out of several claims in one lawsuit, based on the discussion only some of them have matured for a final decision, or just a part of the claim has matured for a final decision, the court may conclude the hearing in regard to the matured claim or to part of the claim and reach a judgment (partial judgment). When assessing whether it will reach a partial judgment, the court will especially take into consideration the extent of the claim or of the part of the claim which has become due for a decision.

If the defendant contests both the ground of the claim and the amount stipulated in the claim, and if the matter has become due for a decision in regard to the ground of the claim, for purposefulness the court may first reach a judgment only on the ground of the claim (interlocutory judgment). The court will stop the discussion about the amount stipulated in the claim until the interlocutory judgment becomes final.

Additionally, under conditions prescribed by law, the court may adopt a decision without a trial in cases when the defendant has not submitted a statement of defence within the prescribed time limit and there are no reasons to believe that they were prevented from submitting a statement of defence.

6.6 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The court procedure is interrupted if/when:

1) the party dies;

2) the party loses its civil capacity, and there is no authorised agent in that procedure;
3) the legal representative of the party dies, or when his/her authorisation for representation dies, and the party has no authorised agent in the procedure;
4) the party which is a legal entity ceases to exist when the competent body decides, with a final decision, for the prohibition of its operation;
5) legal consequences begin from the opening of a bankruptcy procedure;
6) the parties ask for the interruption due to the resolution of the case by mediation or by another manner;
7) because of war or other reasons, the operation of the court ceases; or
8) as determined by some other law.

In addition to the above, the court will determine an interruption in the procedure:

1) when it decides itself not to make a decision about the previous issue (previous matter); and
2) when the party is located in a flooded area and is cut off from the court.

Until a decision has been made concerning the main issue, the court shall suspend the civil procedure with a decision if it determines that the procedure should be conducted according to the regulations for non-litigation procedure. After the decision becomes final, the procedure shall continue according to the rules of non-litigation procedure before the competent court. The actions which the civil court has conducted (insight, expertise, hearing of witnesses, etc.), as well as the decisions which the court has made, are not without merit just because they were undertaken during the civil procedure.

When a judge or lay judge, the president of the council, a member of the council or the president of the court finds out that a request for his/her recusal is placed, he/she shall be obliged to stop any activity on the case in question, until the decision is made that he/she can undertake only the activities for which there is a danger of delay.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

There are no prescribed rules within Macedonian positive laws regarding disclosure in civil proceedings.

However, the parties are obliged to present all facts on which they base their claims and pleading and to propose evidence establishing these facts. The parties are obliged to disclose all of their evidence and facts at the latest up to the closing of the preliminary hearing, or if a preliminary hearing has not been held, on the first hearing of the trial.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Besides client-attorney privilege, there are no other rules for privilege in civil proceedings.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

The party itself is obliged to submit the document to which it refers as a proof of its pleadings.

But, if the document is located in a state body or state agency or with a third party (legal entity or individual) which performs public authorisation, and the party itself cannot secure the handing over or presentation of the document, the court will obtain this document upon the request of the party.

Also, when one of the parties refers to a document and asserts that it is located with the other party, the court will summon this party to submit the document within a certain time limit. The party cannot refuse to submit the document if it itself has referred to it in the procedure as evidence for its assertions, or if this concerns a document which according to the law it is obliged to hand over or present, or if considering its contents, the document is considered as common to both parties.

7.4 What is the court's role in disclosure in civil proceedings in your jurisdiction?

Macedonian laws do not prescribe rules regarding disclosure in civil proceedings.

However, the court is authorised to establish the facts which the parties did not present, and to disclose the evidence that the parties have not proposed if it appears from the results of the hearing and the witness's statements that the parties have taken actions which they cannot disclose, but it cannot base its decision upon facts and evidence for which the parties were not given the possibility to express themselves.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

Since there are no prescribed rules within Macedonian positive laws regarding disclosure in civil proceedings, there are no specific restrictions either.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

The parties are obliged to present all facts on which they base their claims and to propose evidence establishing these facts. Namely, each party will be obliged to exhibit the facts and propose evidence as a basis for its claim or to refute the assertions and evidence of the opponent.

8.2 What types of evidence are admissible, and which ones are not? What about expert evidence in particular?

Admissible evidence in civil proceedings includes: documents; party and witness testimony; expert opinion; and judicial inspection.

The court will disclose evidence through expert testimony upon a proposal from the party, when expertise which the court does not have available is required to confirm or clarify some fact. The expert testimony is given in the form of an expert opinion, and if needed, the expert is summoned by the court to present/explain his findings and opinion.

8.3 Are there any particular rules regarding the calling of witnesses of fact, and the making of witness statements or depositions?

Each person who is summoned as a witness is obliged to respond to the summons, and, if not otherwise determined by the law, is obliged to testify.

Only persons who are able to give information about the facts that are being proven may be interrogated as witnesses.

There are no depositions or written statements. However, witnesses who are of old age, or due to illness or heavy physical impairments cannot respond to the summons, shall be interrogated at home or at the place where they can be found.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Are there any particular rules regarding concurrent expert evidence? Does the expert owe his/her duties to the client or to the court?

The law does not prescribe any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court, or regarding concurrent expert evidence.

The expert is engaged upon a request by the party, but he assists the court in clarifying facts for which the court has no expertise. However, the court may appoint three experts to give an opinion in the case when there are two conflicting expert opinions submitted by each party.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

The court makes decisions in the form of judgments or a decision. The court decides on the claim with a judgment, and in the procedure for disturbance of possession with a decision. In the cases where the court does not decide with a judgment, it decides with a decision.

The court decides with a judgment the claim which concerns the main issue along with the secondary claims. In addition, in certain cases, the court may adopt some the following types of judgment:

- partial judgment – if there are several claims and only some of them are ready for adjudication;
- interlocutory judgment – judgment only on the ground of the claim;
- judgment based on confession – defendant confesses the claim;
- judgment based on denial – plaintiff withdraws the claim;
- judgment due to the non-filing of a statement of defence;
- default judgment – the defendant does not contest the claim or does not appear before the court, and the claim is ready for adjudication based on the evidence and facts; and
- judgment without holding a trial – the defendant is admitted to the decisive facts regardless of whether he/she contested the claim.

9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

The courts have the power to rule on damages and interests if they are part of the plaintiff's claims, within the limits of the claims that are determined in procedure.

Along with the decision for the claims, the court will rule on the costs of procedure. The ruling on the expenses/costs in the judgment is considered to be a separate decision, and the parties can appeal them separately (even if they do not appeal the judgment of the main issue).

9.3 How can a domestic/foreign judgment be recognised and enforced?

A foreign court decision is equivalent to a court decision in the Republic of North Macedonia, and will be legally binding in the Republic of North Macedonia only if such decision is recognised by the court of the Republic of North Macedonia.

The applicant for recognition of a foreign court decision is obliged to submit a proposal for recognition, along with the original/a certified copy of the foreign court decision, and enclose confirmation from the competent foreign court or other authority for the validity and enforcement, if any, of the decision.

The procedure for recognition of a foreign court decision is initiated by a proposal, and in that procedure the court will restrict examination only to whether the requirements prescribed by the law (formality of the proposal) are met.

9.4 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

The parties may file a notice of appeal against a judgment that was passed in first instance within 15 days from the receipt of the transcript of the judgment if no other time limit is determined by the law (ordinary legal remedy). The timely filed notice of appeal prevents the judgment from becoming final in the part that is refuted with the appeal.

In addition to the data that every filing has to contain, the notice of appeal should also contain:

- an indication of the judgment against which the appeal is filed;
- a statement that the judgment is refuted completely or in a specific part;
- the reason for the appeal; and
- the signature of the person who filed the appeal.

The judgment may be refuted because of:

- an essential violation of the provisions of the civil procedure;
- an incorrectly or incompletely established factual situation; or
- the incorrect application of the substantive law.

The parties may request the revision of the second instance judgment that has become final or the repetition of the complete procedure within 30 days from the day the transcript of the judgment was delivered (extraordinary legal remedy).

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

The court is obliged in disputes in which mediation is permitted, together with the invitation for the preliminary hearing or the first hearing of trial, to deliver to the parties a written notice that the dispute may be resolved in mediation. In proceedings for disputes of minor value, the parties are obliged to state whether they agree for the dispute to be settled through mediation.

If the parties have concluded an agreement in mediation proceedings, they are obliged to submit it to the court within eight days from the day of its conclusion. The court will schedule a hearing and in the minutes shall state the concluded agreement which receives the capacity of a court settlement.

II. ALTERNATIVE DISPUTE RESOLUTION

1 General

1.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

The available methods of alternative dispute resolution in the Republic of North Macedonia are:

Mediation
Mediation is any intervention, regardless of its name, in resolving a disputed relationship in a procedure that enables the parties to settle the dispute by negotiation, in a peaceful manner, with the help of one or more licensed mediators, with a view to reaching a mutually acceptable solution expressed in the form of a written agreement.

Arbitration
Parties may agree on the jurisdiction of an arbitral tribunal by way of an arbitration agreement or an arbitration clause in an agreement. Disputes between Macedonian residents may be raised in front of permanently selected courts in Macedonia founded at the Economic Chamber of Macedonia or other organisations foreseen by the law, unless otherwise prescribed by the law. In case the dispute has an international element, the parties may agree upon arbitration in front of a foreign arbitration court or tribunal.

The settlement for arbitration may be concluded both in regard to the specific dispute as well as in regard to future disputes which may arise from a specific legal relationship. The agreement on the selected court (arbitration) will be fully valid only if it is concluded in writing.

1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

- Law of Mediation;
- Law on Civil Procedure (procedure before selected courts);
- Law of International Commercial Arbitration; and
- Rulebook on the work of the Permanent Court of Arbitration -–Arbitration at the Economic Chamber of Macedonia.

1.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

In general, all claims can be settled by means of mediation, and by means of arbitration except if an exclusive competence of a court in the Republic of North Macedonia is foreseen for the specific type of dispute.

1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

In disputes in which mediation is permitted, the court is obliged together with the summons for the preliminary hearing or at the first hearing of trial to deliver to the parties a written notice that the dispute may be resolved through mediation.

The court has no power to force the parties to settle claim by means of alternative dispute resolution (mediation or arbitration).

1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

The available methods of alternative dispute resolution, in nature, are binding for the involved parties.

If the parties have concluded an agreement in mediation proceedings, they are obliged to submit it to the court within eight days from the date of its conclusion. The court will schedule a hearing and in the minutes shall state the concluded agreement which receives the capacity of a court settlement. A court settlement as well as the mediation agreement is binding, as a court judgment is binding.

The judgment by the arbitration body upon the parties has the effect of a final judgment if, with the agreement, the parties did not prescribe the possibility of refusal of the judgment before the higher instance.

The judgment of the arbitration body can be annulled upon a lawsuit of a party. Based on the lawsuit, the first instance court will decide upon the lawsuit (annulment of the judgment by the arbitration body).

2 Alternative Dispute Resolution Institutions

2.1 What are the major alternative dispute resolution institutions in your jurisdiction?

- Licensed mediators; and
- the Permanent Court of Arbitration – Arbitration at the Economic Chamber of Macedonia.

Nikocevik Alen joined Debarliev, Dameski and Kelesoska Attorneys at Law in 2011, having previously worked at a notary office in the area of legal formalities and certification of written documents and acts. At Debarliev, Dameski and Kelesoska Attorneys at Law he operates in the litigation sector, mainly with domestic clients and cases related to all types of civil disputes, litigation, public procurement and bankruptcy proceedings, and he also participates in real estate projects.

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Debarliev, Dameski & Kelesoska Attorneys at Law represent the generation of Macedonian attorneys introducing a fresh perspective and innovative spirit in the approach to legal practices. DDK is a full-service law firm, dedicated to establishing and building relations with the clients on the basis of trust, loyalty, knowledge and dynamic capabilities.

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