

Cross-Regional Court Performance Assessment – Country Report

📍 Tunisia



European Bank
for Reconstruction and Development

DENTONS



Key findings

Macro Data

Southern and Eastern Mediterranean¹

EBRD region of operation

12,262,946 (2021)²

Population size

155,360.0³

Land area (sq.km.)

3,807.1 (2021)⁴

GDP per capita in USD

Tunisia has yet to achieve significant progress toward e-governance and e-justice. Its performance is below the average score of 2 in all dimensions studied. Tunisia's scores are particularly low for Dimension 1. Policies and Infrastructure for E-justice, and Dimension 4. Small Claims Procedures.

Regarding **Policies and Infrastructure for E-justice**, Tunisia receives one of the lowest scores among all assessed EBRD CoOs. While the legal framework and IT infrastructure for e-signatures, electronic documents and e-ID are generally available, their practical use is limited. The level of broadband internet access is low, and the level of internet penetration is only 72%. E-filing and e-service are not available in Tunisia. There is no systematic publication of and access to court judgments on the internet. Tunisia receives particularly low scores for the indicator on stakeholder engagement.

The level of specialization of **Commercial Dispute Resolution** is inconsistent. Specialised commercial divisions or chambers are established in some courts. The inception and continuous training in commercial law for judges is well-developed. However, legislative framework for mediation in civil/commercial disputes is not developed. There is currently no provision for mediation in Tunisian domestic law. Tunisia does not have disaggregated statistics on the effectiveness and efficiency of commercial litigation.



Tunisia has lower than average scores in **Uncontested Procedures for Enforcing a Claim**, with inconsistent indicator scores for this dimension. Self-representation is allowed but in practice it is difficult to conduct the process without professional help. The application cannot be filed online. Notably, no court fees are due both for the order for payment procedure and for general civil litigation in Tunisia. Debtors need to justify their objection in this procedure. It takes the form of an appeal rather than a statement of opposition by the debtor. The actual time to obtain a pronouncement on a request for the issuance of an enforceable title is less than a month, and in many cases is up to 7 days.

¹ See <https://www.ebrd.com/where-we-are.html>.

² See <https://data.worldbank.org/country/tunisia?view=chart>.

³ See <https://data.worldbank.org/indicator/AG.LND.TOTL.K2?locations=TN>.

⁴ See <https://data.worldbank.org/country/tunisia?view=chart>.

Tunisia receives particularly low scores in **Small Claims Procedures**. There are no rules or practices to ease filing and there are no significant and meaningful procedural simplifications of the small claims procedure.

Overall, Tunisia displays a low level of readiness for the introduction of ODR. The country should enhance its strategic approach to e-justice initiative implementation and improve both the legislative framework and the available infrastructure. An immediate strategic priority should be the development and deployment of an integrated Case Management System and digitisation of court processes. It is only when such preconditions are met, that ODR initiatives could be considered.



Questionnaire

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 1. Policies and Infrastructure for E-Justice			
	Link to the strategy that covers e-justice (if any) and time-period of the strategy.		<p>Further to a memorandum signed on 17 November 2017 between the Ministry of Justice and the Ministry of Communication Technologies and Digital Economy, the Tunisian authorities aimed to implement a programme for the digitalisation of justice based on 3 key components:</p> <ul style="list-style-type: none"> • Access to information and laws through the computer system; • Digitisation of all judgements and related files and their electronic archiving; • The establishment of an integrated communication network allowing the transfer of data between all jurisdictions and institutions under the Ministry of Justice; <p>In this context, Tunisia has adopted a strategy called “Digital Justice 2020”, implemented by the Ministry of Justice, within the framework of the joint European Union/Council of Europe programme entitled “Improvement of the functioning, performance and access to justice in Tunisia” (AP_JUST).</p> <p>https://www.coe.int/fr/web/tunis/ap-just#[%2246740964%22:[0]]</p>
	Which body is responsible for digitization of the judiciary?		<ol style="list-style-type: none"> 1) Ministry of Justice 2) Ministry of Technologies of Communication and Digital Economy 3) Council of Europe / European Union (AP-JUST program)
	Which body is responsible for digitization in public administration?		<p>The digitisation of public administration is the responsibility of the Tunisian government (“GoT”), which has adopted specific measures relating to electronic communications between administrations and users (see, for example, Decree-Law No. 2020-31 of 10 June 2020, relating to the electronic exchange of data between structures and their users and between structures, with its implementing rules laid down by Decree No. 2020-777 of 5 October 2020).</p> <p>Ministry of Technologies of Communication and Digital Economy European Union</p>

No.	Indicator Component	Score	Justification for the scoring and sources
	Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it?	No.	
	Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts?	No.	
	Can judges work remotely by accessing the Case Management System of the courts from a distance?	No.	

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.1. Level of Development of E-governance and E-infrastructure			
1.1.1.	Level of internet penetration	2	72% according to https://data.worldbank.org/indicator/IT.NET.USER.ZS (as of 15 Sept)
1.1.2.	Level of development of electronic signatures	2	<p>Tunisia has adopted legislation regulating the use of electronic signatures and the necessary infrastructure (e.g. authorities authorising/certifying providers of such services; authorised/certified electronic signature providers) is in place:</p> <ul style="list-style-type: none"> - Articles 453 paragraph 2 and article 453 bis COC of the decree of 15 December 1906 promulgating the Tunisian Civil Code.; - Law n° 2000-83 of 9 August 2000 relating to trade and electronic exchanges; - Order of the Minister of Communication Technologies of 19 July 2001 fixing the technical characteristics of the device for creating the electronic signature; - Order of the Minister for Communication Technologies of 19 July 2001, setting the technical data relating to electronic certificates and their reliability; <p>However, the use of electronic signatures remains limited.</p> <p>The operator who wishes to use an electronic signature in his exchanges and contracts must hold an electronic certificate enabling the link between the electronic signature and its signatory to be validated.</p> <p>This electronic certificate is an identity document which allows the conclusion of electronic contracts and transactions and which is issued by a duly authorised electronic certification service provider such as the National Agency for Electronic Certification ("TUNTRUST").</p>
1.1.3.	Level of development of electronic documents	2	Decree-Law of the Head of Government No. 2020-31 of 10 June 2020, on the electronic exchange of data between structures and their users and between structures.

No.	Indicator Component	Score	Justification for the scoring and sources
1.1.4.	Level of development of national electronic identification	2	<p>On 3 August 2022, Tunisia officially launched the citizen's mobile digital identifier dedicated to administrative services through a new electronic platform called "e-houwiya.tn", in application of Decree-Law No. 2020-17 of 12 May 2020 on the citizen's unique identifier.</p> <p>The citizen « unique » identifier is different from the national ID card. It is an electronic identifier composed of a serie of numbers which is granted to any Tunisian citizen.</p> <p>The objective of such citizen unique identifier consists in:</p> <ul style="list-style-type: none"> To grant a single identification code to a citizen from his birth (which differs from the national ID card which is obtained at legal majority only); To authenticate citizen access to any administrative service; To integrate an electronic signature; To set-up a multi-service electronic card for the citizen; <p>The citizen unique identifier will be held in a special register which data will be stored during 30 years after the citizen death or lose of Tunisian nationality.</p>
1.1.5.	Level of online access to administrative services	2	<p>Tunisia provides with passive or interactive access to administrative services with explanations of the options available to users.</p> <p>Interactive online access to administrative services exist for some administrations (e.g. National Companies Register, Land Register ...) but does not cover all administrative services which mostly require written documents and physical presence of the user.</p>
1.1.6.	Level of broadband internet access	1	<p>Source: https://www.speedtest.net/global-index/tunisia#mobile</p> <p>In July 2022 :</p> <p>Fixed broadband: 7.85 Mbps (download)</p>

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.2. Overall level of development of justice system digitalisation			
1.2.1.	Status of e-Justice strategy	2	<p>There is no official information on the implementation of national plan “Digital Justice 2020”. Its implementation though is officially supported by EU and Council of Europe through AP-JUST program.</p> <p>Tunisia has implemented the joint EU-Council of Europe project “Improving the functioning, performance and access to justice in Tunisia” (AP-JUST), which is co-financed by the European Union and the Council of Europe (as mentioned below).</p> <p>Among the achievements of such program, an experimentation of a platform called “J-share” which enables secured exchanges of documents between lawyers and courts is currently on-going before several courts (https://www.coe.int/fr/web/tunis/-/-jshare-projet-pilote-d-echange-numerique-de-documents-dans-la-domaine-de-la-justice-en-tunisie).</p>
1.2.2.	Case management system (CMS) deployment rate	2	Rated based on experience of the local reporter.
1.2.3.	Level of integration of the Case Management System	1	Although no official information could be located by country experts, it appears that at this point the courts in Tunisia operate based on locally developed applications rather than an integrated CMS. See also https://newilac.wpengine.com/wp-content/uploads/2016/02/ILAC-Tunisia-Court-System-Assessment-Report.pdf
1.2.4.	Official information about the justice system available over the internet	1	<p>The following official link from the website of the Ministry of Justice (https://www.justice.gov.tn/index.php?id=11&L=3) presents basic data on the judicial system in Tunisia and its different institutions, provides access to legal codes, and also allows lawyers and litigants to follow civil and criminal cases as well as files and complaints.</p> <p>Court addresses are available on the following link: https://www.justice.gov.tn/index.php?id=255&L=3</p> <p>Schedules of court hearings are not available online. Such information can be provided on site at each court secretary services.</p> <p>No forms are available on-line.</p>
1.2.5.	Publication of court judgments and free online access to them	1	<p>Some judgments of the Court of Cassation (case law) are available on the website of the Court of Cassation: http://jurisprudence.e-justice.tn/wwwisis/juris.10/form.htm</p>

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.3. Digitisation of court processes			
1.3.1.	Availability and use of e-filing	1	No.
1.3.2.	Availability and use of electronic service of process (e-service)	1	No.
1.3.3.	Possibility to check case files and track case progress remotely	2	<p>Parties can track the progress of a case and the main events in the proceedings (the information is presented in a chronological table of events with a brief summary).</p> <p>However, the case is not always updated and the documents related to the case are not accessible on the remote case monitoring site.</p> <p>Link: http://services.e-justice.tn/consultation/tdossierpaliersrch.php</p>
1.3.4.	Possibility to hold online / videoconference hearings (for any type of case)	2	<p>Unlike criminal proceedings, which adopted the possibility of video-conference hearings following the Covid-19 crisis (see Decree-Law No. 2020-12 of 27 April 2020), the Tunisian legal system does not provide for this possibility for civil courts.</p> <p>Effective video hearings in criminal procedures have been held, especially during the Covid-19 period. Necessary infrastructures is available.</p>
1.3.5.	Court fees	N/A	<p>Tunisian justice is a public service and is free. Magistrates are not paid by litigants but by the State.</p> <p>In civil matters, the litigants bear the costs, in particular bailiff and lawyer fees, stamp duties and registration fees (where applicable). Stamps and registration fees are collected by tax office, not directly by courts.</p> <p>There is no online calculators for this.</p>
1.3.6.	Ability to initiate enforcement based on electronic enforceable titles	1	There is no legislation governing electronic enforceable titles and enforcement can only be initiated based on an enforceable title presented on paper.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.4. Stakeholder engagement			
1.4.1.	Existence of an obligation for professional court users to interact with the court only electronically	1	No.
1.4.2.	Availability of monetary incentives for conducting certain court actions electronically	1	No.
1.4.3.	Availability of user guides, help desk and guidance in the e-filing system	1	No.
1.4.4.	Whether court user surveys are conducted by the courts/ the judicial system on a regular basis	1	No.

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 2. Commercial Dispute Resolution			
	What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?		In Tunisia, a commercial case is defined as “ a dispute between merchants concerning their commercial activity ”, in accordance with article 40 of the Code of Civil and Commercial Procedure of Law No. 59-130 of 5 October 1959 promulgating the Code of Civil and Commercial Procedure.
	Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g., changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.		During these three years, Tunisia has not adopted significant reforms in the field of commercial dispute resolution, but in the near future the State intends to introduce a new law on mediation to facilitate the resolution of disputes in civil and commercial matters.
	What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions?		<p>The Covid-19 crisis has deeply affected the Tunisian judicial system and all judicial cases have been postponed many times outside the normal process (without physical hearings), notably during the total freeze ordered during the year 2020 (decree of 22 March 2020).</p> <p>As a side effect of this crisis, the Tunisian justice system has embarked on an accelerated digitisation policy which is currently materialising in the following developments:</p> <ul style="list-style-type: none"> - End of the communication of written notes between the parties during the hearing and obligation to communicate these notes directly between the lawyers (by email, fax or paper copy given against discharge) and to give a copy to the secretariat of the court; - Adoption of the online case tracking system for citizens and lawyers.
	Number of female/male judges in the country.		<p>Source: National Gender Report 2015 published by the National Institute of Statistics (NIS): http://www.ins.tn/sites/default/files/publication/pdf/rapport%20national%20genre%20Site%20_0.pdf</p> <p>No data yet available for courts of first instance.</p> <p>The only data available concern magistrates of the 1st, 2nd and 3rd degree, which correspond to the higher courts (Courts of Appeal and Court of Cassation): In 2007, out of a population of 1,860 people, there were 569 women and 1,291 men, with an increase of 34.8% for women compared to 2002.</p>
	Number of female/male first-instance commercial judges in the country.		No data yet available.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.1. Level of specialisation of commercial dispute resolution			
2.1.1.	Availability of a specialised commercial court or specialised commercial divisions in courts	2	<p>Tunisia legal system does not have specialised commercial courts. However, the legislator adopted with the Law No. 95-43 of 2 May 1995 (which amends Article 40 paragraph 4 of the Code of Civil and Commercial Procedure) the possibility to create by decree commercial chambers before 1st instance courts.</p> <p>The decree No.96-417 of 11/03/1996 created 8 commercial chambers before the 1st instance courts of Tunis, Kef, Sousse, Monastir, Sfax, Gabes, Gafsa and Médenine.</p> <p>Other commercial chambers have been created before the 1st instance courts of Grombalia and Bizerte in 2001, in Ben Arous in 2018, and in Ariana, Mahdia and Jendouba in 2020.</p>
2.1.2.	Modifications of the general procedural rules in respect of commercial cases as compared to general civil cases	2	<p><u>Specificity of the legal proof regime:</u></p> <p>As an exception to the common civil regime, where a written document is required to prove any claim exceeding 1,000 TD (Article 473 of the Civil Code), commercial claims can be proven by any means of evidence in accordance with Article 598 of the Commercial Code.</p> <p><u>Specificity of the Composition of the court:</u></p> <p>According to Article 40 of the Code of Civil and Commercial Procedure, the composition of the commercial chamber is different from that of the civil chamber, the functions of the two assessors (professional magistrates in civil matters) will be assumed by two merchants who will give a non-binding opinion on the case while the president of the commercial chamber remains a professional magistrate who will have the power of decision.</p> <p>These merchant assessors are appointed for a period of three years by order of the Minister of Justice on the proposal of the most representative employers' association.</p> <p>With the exception of these specificities, commercial disputes are governed by the same procedural rules applicable to courts of first instance ruling on civil matters, in accordance with the provisions of the Code of Civil and Commercial Procedures.</p>

No.	Indicator Component	Score	Justification for the scoring and sources
2.1.3.	Inception training in commercial law for commercial judges	3	<p>In accordance with Article 2 of Decree No. 2020-28 of 10 January 2020, which sets out the powers of the Higher Institute of the Judiciary, the study and training regime, the Higher Institute of the Judiciary is responsible for the inception training of professional magistrates.</p> <p>There is mandatory initial training for judges. Any candidate for the position of judge shall pass an exam to enter to the Higher Institute of the Judiciary. Admitted candidates will then follow a cycle of study of 2 years (1 year within the Institute and 1 year in apprenticeship in courts and administrations).</p> <p>Commercial law is included within the teaching program.</p> <p>Even during the first 5 years of exercising their duties, new judges must follow regular trainings.</p>
2.1.4.	Continuous (regular) commercial law training for commercial judges	3	<p>In accordance with Article 2 of Decree No. 2020-28 of 10 January 2020, which sets out the powers of the Higher Institute of the Judiciary, the study and training regime, the Higher Institute of the Judiciary is responsible for the continuous training of both professional magistrates and non-professional magistrates. Continuous training is mandatory and contains commercial law courses.</p>
2.1.5.	Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)	3	<p>Commercial judges have legal clerks who receive specialized commercial law training.</p>

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.2. Use of mediation/ADR tools			
2.2.1.	Availability of mediation in civil/ commercial disputes	1	No.
2.2.2.	Availability of an official register of mediators accessible online	1	No.
2.2.3.	Availability of incentives for mediation	1	No.
2.2.4.	Enforceability of mediation settlement agreements	1	There is currently no provision for mediation in Tunisian domestic law. However, any settlement agreement is considered as a transaction agreement in the meaning of article 1458 of the civil Code and is fully enforceable as any contract provided that the transaction does not affect State interests or matters of public order.
2.2.5.	Availability and use of online solutions for out-of-court settlement	1	No.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available)			
2.3.1.	Clearance rate of first-instance commercial cases for the latest year for which statistics is available	N/A	There is no disaggregated data for commercial cases.
2.3.2.	Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases	N/A	
2.3.3.	Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available	N/A	
2.3.4.	Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)	N/A	

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 3. Uncontested Procedures for Enforcing a Claim			
	What is the name of the procedure (e.g., order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.		<p>The procedure applicable to uncontested claim of payment is the court injunction of payment (article 59 et seq. of the Code of Civil and Commercial procedures).</p> <p>This procedure is applicable to any claim related to debt of any nature which has a determined amount and is based on a contract, a cheque, a bill of exchange or bill of order.</p> <p>When the debt amount is superior to 150 TND, the creditor must send a prior notice of payment through bailiff to command the debtor to pay within 5 days.</p> <p>If the debtor did not pay, the creditor is allowed to file an application for injunction of payment before the president of the district court (if the claim is less than 7,000 TND) or before the president of the 1st instance court (if the claim is superior to or equal to 7,000 TND).</p> <p>The application shall be prepared in two originals and attached with all supporting evidence of the claim and the bailiff prior notice of payment.</p> <p>If the judge considers the claim as valid, he issues an injunction order of payment which is legally enforceable like any judgment. His decision shall be issued within 3 days.</p>
	Which authority is entrusted with examining claims that may be uncontested by the debtor?		Injunctions of payment are of the jurisdiction of the president of the district court (if the claim is less than 7,000 TND) or of the president of the 1st instance court (if the claim is superior to or equal to 7,000 TND), in accordance with articles 39 and 40 of the Code of Civil and Commercial procedures.
	What claims is the procedure applicable to (i.e., only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)?		This procedure is applicable to any claim related to certain debt of any nature which has a determined amount and is based on a contract, a cheque, a bill of exchange or bill of order (article 59 of the Code of Civil and Commercial procedures).
	Is there a monetary threshold for applying the uncontested claims procedure?		When the debt amount is superior to 150 TND, the creditor must send a prior notice of payment through bailiff to command the debtor to pay within 5 days, before submitting his application for injunction of payment.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.1. Ease of filing			
3.1.1.	Effective self-representation	2	<p>Self-representation is allowed before district courts (article 49 of the Code of civil and commercial procedure). However, in most of the cases, parties choose to be represented by a lawyer.</p> <p>On the contrary, self-representation is forbidden before the 1st instance courts in accordance with article 68 of the same Code (“The ministry of a lawyer is compulsory before the court of first instance, except in matters of personal status”).</p>
3.1.2.	Availability and use of forms for filing the claim	1	No.
3.1.3.	Availability and use of online filing	1	No.
3.1.4.	Level of court fees for filing a claim	N/A	No fees are due to file either petition for injunction for payment or to file court case.
3.1.5.	Simplified rules on attachment of evidence to the claim	1	The application for injunction of payment shall be prepared in two originals and attached with all supporting written evidence of the claim and with an original of the bailiff prior notice of payment (article 63 of the Code of civil and commercial procedure).

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.2. Efficient processing			
3.2.1.	Predictability of the timelines for pronouncement	2	Article 64 of Code of Civil and Commercial procedure provides that court decisions upon applications of injunction of payment shall be issued within 3 days from the application date. However, this deadline is not complied with by all judges.
3.2.2.	Length of timelines for pronouncement	3	Depending on the court and the judge, injunctions of payment are generally issued within maximum 7 days.
3.2.3	Availability of options for service to the debtor without proof of receipt	3	<p>According to article 65 of the Code of Civil and Commercial procedures, the injunction of payment shall be notified to the debtor and executed in accordance with enforcement rules of articles 285 et seq. of the same Code.</p> <p>If the receiving party is in Tunisia and has a known address, the notification is made in accordance with article 8 of the code of civil and commercial procedure ("CPCC"): The bailiff delivers the deed of notification to the receiving party in person. If this latter is not available, the deed of notification is served to his duly empowered representative or to any person living with the receiving party on condition to have discernment and her identity is verified.</p> <p>If the receiving party refuses to be delivered with the notification deed, such deed is submitted in a sealed envelope which contains the full name and address of the receiving party. Such envelope is submitted at the district court secretary or at the police station of the closest jurisdiction.</p> <p>If the bailiff does not find any person to receive the notification, the bailiff shall let a copy of the deed and shall submit another copy in a sealed envelope which contains the full name and address of the receiving party. Such envelope is submitted at the district court secretary or at the police station of the closest jurisdiction.</p> <p>In the two last cases, the bailiff shall address to the receiving party within 24 hours a registered mail with acknowledgement of receipt informing her that a notification has been served.</p> <p>If the receiving party has left his last address and we do not know the new one, a copy of the notification deed is submitted in a sealed envelope which contains the full name and address of the receiving party. Such envelope is submitted at the district court secretary or at the police station of the closest jurisdiction.</p> <p>If the receiving party has no known address, a copy of the notification deed are displayed at the court having jurisdiction and another copy is displayed at the Governorate having jurisdiction.</p> <p>Any infringement to the above notification rules are sanctioned by imprisonment of one year against anybody who uses fraudulent means in order to avoid proper notification.</p>
3.2.4.	Ease of debtor's objection	1	<p>Debtor can lodge an appeal against injunction of payment, in accordance with article 66 of the Code of civil and commercial procedure.</p> <p>Such appeal must be made in written form and shall contain the same elements as a petition before 1st instance court in accordance with articles 130 and 70 of the Code of Civil and Commercial procedures (identity of the parties, statement of facts, merits of the claim, legal basis of the claim etc.).</p>

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition			
3.3.1.	Consequence of debtor's lack of objection	3	<p>According to article 65 of the Code of Civil and Commercial procedures, the injunction of payment shall be notified to the debtor and executed in accordance with enforcement rules of articles 285 et seq. of the same Code.</p> <p>In case the objection is partial, the injunction remains enforceable for the non-objected part of the amount. According to our experience, courts make distinction between judgements which amount can be divided and those which cannot be divided. If a partial objection has been filed against an injunction or judgment which cannot be divided in its amount, the appeal court will order the dismissal of the appeal.</p>
3.3.2.	Launching the litigious stage of the procedure	2	If the debtor lodges an appeal against the injunction of payment (article 66 of the Code of Civil and Commercial procedures), the appeal will suspend any enforcement of the injunction of payment (article 146 of the same Code).
3.3.3.	Link between the fees due in the uncontested claims procedure and in the litigious procedure	N/A	There is no legal tariff.
3.3.4.	Management of statements of opposition	1	No.

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available)			
	What is the name of the procedure (e.g., small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them.		No specific name. Small claims are of the exclusive jurisdiction of district courts, in accordance with article 39 of the Code of Civil and Commercial procedures.
	Is there a special small claims court or a special court division examining small claims?		District courts (article 39 above).
	What is the monetary threshold for the applicability of the procedure?		Small claims are legally defined as claims with a value of less than 7,000 TND (article 39 above).
	What claims is the procedure applicable to?		The procedure applies to any type of payment claim.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.1. Ease of filing			
4.1.1.	Effective self-representation	2	Article 49 of the Code of Civil and Commercial procedures allows self-representation of the parties.
4.1.2.	Existence of forms for filing the claim	1	No.
4.1.3.	Availability and use of online filing	1	No.
4.1.4.	Guidance to self-represented litigants	1	No.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure			
4.2.1.	Statutory timelines in the small claims procedure	2	According to Article 48 of the Code of Civil and Commercial Procedure “If the parties are summoned in writing, the time limit set for the appearance shall not be less than three days from the day on which the summons is delivered to the party concerned and the day specified for appearance. “
4.2.2.	Simplified evidentiary rules	1	Evidence in commercial claims is governed by article 598 of the Code of trade (freedom of evidence), which applies to both small claims and large claims.
4.2.3.	Simplified rules on hearings	2	Same rules as for 1st instance courts, with the exception that there is no pleading (i.e. preparatory hearings for exchange of memos and then hearing for pleading) in the cases ruled by the district courts. There are court hearings but there is no mandatory pleading phase during district court case unlike civil and commercial procedure before 1st instance court (i.e. preparatory hearings for exchange of memos and then hearing for pleading). However, the lawyer has the possibility to make oral pleadings before district court during any hearing before judgment.
4.2.4.	Special rules on encouraging conciliation or mediation	1	No.
4.2.5.	Simplified content of the judgment	1	Rules governing the content of the judgment are the same for all courts (Article 123 of the Code of Civil and Commercial Procedure).
4.2.6.	Modifications to the rules on appealing the judgment in the small claims procedure	1	The appeal for small claims follows the same procedural rules as for large claims, except that the court of appeal for small claims is the court of first instance (Article 40 of the Code of Civil and Commercial Procedure).

Contact

Yulia Shapovalova
Principal Counsel
Legal Transition Team
European Bank for Reconstruction & Development

ShapovaY@ebrd.com

© European Bank for Reconstruction and Development, 2023

All rights reserved. Reproduction and dissemination of material contained in this publication for educational or other non-commercial purposes are authorised without any prior written permission from the copyright holders, provided the source is fully acknowledged and a notification is sent to: permissions@ebrd.com.

The contents of this publication reflect the opinions of individual authors and do not necessarily reflect the views of the EBRD. Terms and names used in this report to refer to geographical or other territories, political and economic groupings and units, do not constitute and should not be construed as constituting an express or implied position, endorsement, acceptance or expression of opinion by the European Bank for Reconstruction and Development or its members concerning the status of any country, territory, grouping and unit, or delimitation of its borders, or sovereignty.

Designed by Red Rocket Graphic Design | www.redrocket.co.uk



European Bank
for Reconstruction and Development