

Before the Arbiter for Financial Services

Case No: ASF 124/2021

VA

(The Complainant)

vs

Momentum Pensions Malta Ltd

(C 52627)

(The Service Provider/MPM)

Sitting of the 9 May 2022

The Arbiter,

Having seen the complaint,

Having seen the reply of the Service Provider,

Having seen the records of the sitting of the 30 November 2021, where the Service Provider alleged that the Complainant had filed the same complaint before the Luxembourg Financial Services Ombudsman. The Arbiter ordered the Complainant to send him a true copy of the complaint filed with the Luxembourg Ombudsman so that he could determine whether he had the jurisdiction to deal with his complaint.

During the hearing of the 17 January 2022, the Arbiter informed the Complainant that he had not adhered to his previous order to file a copy of the complaint before the Luxembourg Financial Services Ombudsman.

The Complainant informed the Arbiter that he had filed the same complaint both in Luxembourg and in the UK, and the Arbiter ordered the Complainant to file a true copy of these complaints.

The Complainant adhered to this order and sent to the Office of the Arbiter for Financial Services (OAFS) a copy of the complaints he had filed in Luxembourg with the Commissariat Aux Assurances and with the Financial Services Ombudsman in the UK.

The Arbiter compared the complaints filed by the Complainant in Luxembourg and in the UK with the complaint filed with the Arbiter for Financial Services, and noticed that both the parties and the wording of the complaints are the same.

The Service Provider in this case, that is Momentum, also features in all three complaints.

Article 20(2) of Chapter 555 of the Laws of Malta provides that:

'(2) An Arbiter shall decline to exercise his powers under this Act where:

(a) the conduct complained of is or has been the subject of a lawsuit before a court or tribunal or is or has been the subject of a complaint lodged with an ADR entity in any other jurisdiction, initiated by the same complainant on the same subject matter.'

The Arbiter notes that the '*same complaint on the same subject matter*' has been lodged by the Complainant in another two jurisdictions. Both the Commissariat Aux Assurances (CAA),¹ and the UK Financial Services Ombudsman are considered to be ADR Entities.

Therefore, the Arbiter is precluded by law to consider the merits of this case.

For the above stated reason, the Arbiter cannot take further cognisance of this case.

¹ <https://www.caa.lu/fr/consommateurs/resolution-extrajudiciaire-des-litiges>

Since the case has been decided on a procedural matter, each party is to pay its expenses of these proceedings.

Dr Reno Borg
Arbiter for Financial Services