



CYPRUS

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Anastasios Antoniou LLC offers the full range of dispute resolution services, from alternative dispute resolution to litigation before all courts and tribunals of Cyprus. The firm's qualified advocates are entitled to appear before all courts and tribunals, including Civil, Criminal and Family Courts, the Rent Control and Industrial tribunals, the Commission for the Protection of Competition and of course the Supreme Court.

Although the firm prides itself in approaching the legal issues brought before it with the avoidance of potential disputes in mind, it recognises the inevitability of disputes arising in any context, domestically or internationally. Ensuring that its clients can pursue and safeguard their interests in whatever manner possible means the firm has fully committed dispute resolution and litigation practice.

The firm gives particular emphasis to the negotiation stage and alternative dispute resolution, in which fields it strives to implement pioneering techniques.

What has come to distinguish the firm is its ability to offer strategic dispute resolution services to the particular areas of practice it is specialised in, such as competition, commercial, corporate and intellectual property law. Its expertise in providing full legal support to industry sectors such as Energy, Telecommunications, e-Commerce and Life Sciences, covers in a unique way any dispute which might arise in relevant transactions.

The firm's litigation practice is characterised by its exhaustive approach towards dealing with clients' issues and particularly any judicial proceedings they are involved in. It attributes particular attention to the design and deployment of a winning litigation strategy that can ensure its clients' interests are best protected throughout the duration of judicial proceedings, should they be claimants or defendants. The firm has been working on a number of high-profile litigation cases in 2010, which have often attracted media attention.

Indicatively, these include acting for the investors in a €400 million Ponzi-scheme fraud, civil proceedings against a multinational financial services company, a claim against the constitutionality and EU Law-conformity of certain provisions of the customs legislation of Cyprus, a large dispute over one of the oldest restaurants in Limassol and winning a number of highly exceptional freezing and other interim orders.

Although Cyprus is slow in embracing commercial arbitration and disputes are usually resolved through litigation at the courts, significant steps are taking place lately to fully implement international arbitration rules and practices, as well as mediation. Being an EU Member State, the Cypriot legal order is fully aligned the *acquis communautaire*.

In recent months there has been an increase in litigation due to the economic downturn, since a plethora of market participants face financial difficulties. This has also led to debt collection and recovery, bankruptcy proceedings and liquidation proceedings.

As regards future developments, courts have indicated in numerous occasions that they might favour the referral to arbitration of specialized disputes such as cases concerning highly technical issues. Moreover, the EU Directive on Mediation (Directive 2008/52/EC on certain aspects of mediation in civil and commercial matter), once transposed in the national legal order, could move things further as regards ADR and see the implementation of mediation as a method for resolving various disputes



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RECHTSANWÄLTE | STEUERBERATER | WIRTSCHAFTSPRÜFER

Kantenwein Zimmermann Fox Kröck & Partner (Kantenwein) is a multi-disciplinary firm composed of attorneys at law, tax consultants and auditors.

The firm's dispute resolution team focuses on commercial litigation with an emphasis on banking, capital markets and projects. Its team comprises two equity partners (Dr Thomas Kantenwein and Dr Alexander Kröck), four salary partners (Dr Annett Kuhli, Marc Hildebrand, Dr Gottfried Hammer and Marcus van Bavern) and two associates.

Kantenwein often has to deal with litigation departments of large international law firms on the opposing side in a variety of commercial matters.

"Thus," Dr Kantenwein commented, "we provide advice on a high level. The distinguishing feature our firm is able to offer is a specific hands-on approach of its partners."

Dr Kröck noted that it is often difficult to get information from opposing parties in Germany. He explained:

"Contrary to the common law approach where you can find discovery, the German system – similar to other civil law systems – does not provide per se for a duty to disclose information to the opposing party. So it is often a problem to get the necessary information which allows you to set up the court case."

The German banks are currently suffering significantly from a new line of court decisions allowing for a bank customer to return their closed fund investment to the bank, if the bank has not explicitly disclosed kick-backs the bank had received from the initiator of a fund. Dr Kröck added:

"This is particularly difficult for banks selling specifically fund products because until about 2004/2005 it was common practice for banks not to disclose such kick-backs to clients. What makes this even worse for banks is the fact the three-year-period of limitation will only be triggered once the client has positive knowledge of the kick-back. There are many exciting developments in this area right now requiring a close follow-up."

Dr Kröck noted that there is usually a significant delay between problems beginning and ultimately becoming litigious. As a result, the economic downturn is only now starting to hit dispute resolution practices in Germany. He added:

"Currently we have been instructed by a bank that is involved in a dispute revolving around accounting issues relating to a large scale insolvency. This insolvency happened during the start of the financial crisis and only now is headed to reach the courts."

Dr Kantenwein anticipates a move towards eLitigation, which is likely to lead to changes to the procedural rules allowing for, for example, filing documents by email and hearings by way of video conference. He concluded:

"Keeping in mind that the court system has a conservative tendency this might still take a long time but significant change will be inevitable. Arbitration, due to its increased flexibility, is far more advanced in this area. However, state court litigation will have to follow sooner or later."