

# Cyprus

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### I. LITIGATION

#### 1 Preliminaries

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

Following independence in 1960, the Republic of Cyprus is a common law jurisdiction with its own legal system. Nonetheless, as a result of British rule from 1878 up to 1960, Cyprus inherited and adopted the English legal system to a large extent, albeit codifying some of the English common law rules.

The main statute regulating the Cypriot legal system is the Courts of Justice Law 14 of 1960, pursuant to the provisions of which all Courts of the Republic apply the Constitution, the laws retained through the transition of Cyprus from a colony to a sovereign State by virtue of Article 188 of the Constitution, the principles of Common Law and Equity and of course the laws enacted by the House of Representatives, which is the legislative body of the Republic. Following accession of the Republic to the European Union in 2004, the Constitution was amended so that European Community Law maintains supremacy over the Constitution and national legislation.

Criminal and Civil cases are procedurally regulated by their respective rules and commence at the District Courts of the Republic. District Court Judgments can be appealed at the Supreme Court of Cyprus.

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

The District Courts have jurisdiction to hear and determine at first instance all civil actions, with the exception of matters that fall within the jurisdiction of the Rent Control Tribunal, the Industrial Disputes Tribunal and the Family Court. Cases before District Courts are heard by a single judge.

There are 6 District Courts, one for each province of Cyprus. The Kyrenia and Famagusta District Courts have been taken over by Nicosia and Larnaka District Courts respectively following the Turkish military invasion of 1974 and their incapacity to operate in their respective territories of jurisdiction due to the ongoing occupation of the northern part of Cyprus.

District Courts have jurisdiction to hear and determine all civil action where the cause of action has arisen wholly or in part within the limits of the district they are established or where the defendant

in the action at the time of its filing resides or carries out his business within the district of their jurisdiction.

The Rent Control Court has jurisdiction to determine matters regarding recovery of possession of controlled rented property and the determination of fair rent, as well as any other incidental matter. The family courts have exclusive jurisdiction to determine petitions for divorce, custody of children, maintenance and property disputes between spouses where the parties are members of the Greek Orthodox Church. The Industrial Disputes Tribunal has exclusive jurisdiction to determine matters arising from the termination of employment such as the payment of compensation (except where the amount claimed exceeds the equivalent of 2 years' salary, in which case the jurisdiction is vested in the District Court), payment in lieu of notice, compensation arising out of redundancy and any other claim for any payment arising out of the contract of employment. Additionally the Industrial Disputes Tribunal has jurisdiction to determine any claim arising out of the application of the *Protection of Motherhood Law*, cases of unequal treatment or sexual harassment in the workplace and disputes between Provident Funds and their members.

The Supreme Court is the ultimate judicial body of the Republic. In its appellate jurisdiction, the Supreme Court has jurisdiction to hear and determine all appeals from lower courts in civil and criminal matters. Appeals are heard by a panel of three judges. The hearing of the appeal is based on the record of the proceedings kept in the lower court. The Supreme Court only hears evidence in exceptional and very rare circumstances. In the exercise of its appellate jurisdiction the Supreme Court may uphold, vary or set aside the decision appealed from, or it may order a re-trial.

The Supreme Court has exclusive jurisdiction to hear any recourse filed against a decision, act or omission of any person, organ or authority exercising executive or administrative authority. A decision, act or omission may be annulled on the ground that it is in excess or abuse of any power vested in the administrative organ, or contrary to the provisions of the Constitution. The Supreme Court also has original and appellate jurisdiction in admiralty cases. At first instance the case is heard by a single judge of the Supreme Court and on appeal the case is heard by the full bench. The Supreme Court has exclusive jurisdiction to issue the prerogative writs of *Certiorari*, *Habeas Corpus*, *Mandamus*, *Quo Warranto* and *Prohibition*. The Supreme Court has jurisdiction to examine the constitutionality of any law or any conflict of power or competence which arises between any organs or authorities of the Republic. In addition the Supreme Court hears and determines any recourse by the President of the Republic regarding the compatibility with the constitution of any law enacted by the House of Representatives.

### 1.3 What are the main stages in civil proceedings in Cyprus? What is their underlying timeframe?

Civil proceedings commence by the filing of the originating process, which can either be a Writ of Summons or Originating Summons, stating the nature of the claim and the relief sought.

A Writ of Summons can either be:

- generally endorsed, namely contain only the relief and remedies sought, in which case a statement of claim must be filed within 10 days of an appearance by the defendant; or
- specially endorsed, namely contain the full statement of the claim and the relief and remedies sought.

Following the filing of the claim and service of same upon the defendant, the defendant must file a note of appearance within 10 days from the date he was served. If the defendant intends to challenge the jurisdiction, he must apply to the court for leave to file a conditional appearance.

The defendant must file a statement of defence within 14 days following the filing of an appearance or 14 days following the filing of a statement of claim in the case of a generally endorsed Writ of Summons. The Claimant may file a response to the defence within 7 days after receiving the defence and if the defendant has a counterclaim in his defence the claimant will file a response to the counterclaim within 14 days of the counterclaim.

Once the pleadings are closed, any party can apply to the court for a hearing date. A hearing takes place and judgment is issued.

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

Cypriot courts follow the conflict of laws Common Law principles in connection to exclusive jurisdiction clauses. As such, although the courts will expect the parties to abide by an exclusive jurisdiction clause existing in the disputed contract between them, they nonetheless have inherent power and discretion to disregard an exclusive jurisdiction clause.

The criteria laid out in landmark rulings such as *The Eleftheria* (1969) 2 All E.R. and *The Fehram* (1958) 1 All E.R. 233 have been upheld and followed by Cypriot courts when addressing exclusive jurisdiction clauses in Supreme Court Judgments such as *Demstar Ltd v. Zim Israel Navigation Co. Ltd* (1991) 1 CLR 620 and *Jadranska Slobodna Plovidba v. Photiades and Co.* (1965) 1 CLR 58.

Following the accession of Cyprus to the EU, Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('Brussels I') applies in respect of parties domiciled in the Member States bound by it and gives Cypriot courts exclusive jurisdiction over the following issues:

- an action *in rem* (namely an action relating to a right enforceable against the asset itself) against:
- immovable property (including ships) in Cyprus; and
- tenancies of immovable property in Cyprus that are of duration greater than six months.
- actions relating to the validity of the constitution or dissolution of a Cypriot company;
- the validity of entries in the public registries of Cyprus (except for the validity of European patents); and
- proceedings relating to judgments brought before a Cypriot court for enforcement.

### 1.5 What are the costs of civil court proceedings in Cyprus? Who bears these costs?

Costs of civil court proceedings in Cyprus vary depending on the complexity of the case and the time the advocates handling it devote to it. There are statutory regulations providing for the minimum charges applicable at each stage of the proceedings, variable according to the scale of the claim.

Any award of the costs of the proceedings remains at the sole discretion of the adjudicating court. In general, costs of litigation are awarded to the successful party in the proceedings. The court directs whether the costs will be assessed or taxed by the registrar of the court.

### 1.6 Are there any particular rules about funding litigation in Cyprus? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

Funding of litigation is normally provided by the parties to the proceedings. If a special retainer exists to govern legal fees and such is deposited with the court, it overrides fixed fees. Contingency fees are not permitted.

Nonetheless, the implementation of Council Directive 2002/8/EC through the Legal Aid Law 165(I)/2002, as amended, provides for legal aid in cases where the party pursuing a claim is financially unable to pay legal costs entailed in judicial proceedings.

The court has an inherent jurisdiction as to granting an order for security of costs upon application by a defendant. For such an order to be issued two conditions must be satisfied, namely:

1. The claimant must not be domiciled in Cyprus or the EU.
2. The claimant must not have sufficient assets within the jurisdiction to satisfy any order that may be made against him to pay the defendant's costs.

The amount of security that may be ordered is the amount of costs expected to be incurred by defending the action against the defendant seeking an order for security of costs.

## 2 Before Commencing Proceedings

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

There are no procedural formalities that must be carried out prior to the initiation of formal proceedings.

### 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?

Limitation periods are prescribed in the Limitation of Actions Law, Cap. 15, depending on the nature of the cause of action and are applicable as follows, save for a number of exceptions for which limitation periods are suspended:

- there is a 15-year limitation period with regard to claims in respect of bonds and mortgages, as of the date of the cause of action;
- there is a 15-year limitation period with respect to any judgment, as of the date on which the judgment became enforceable;
- there is a 12-year limitation period with respect to claims to estate;

- there is a 6-year limitation period in relation to any book debt due to or from a bank as of the date that the cause of action occurred; and
- there is a 2-year limitation period in relation to any goods sold and delivered, bills, work done and wages, as of the date that the cause of action occurred.

However, amending legislation has in the past suspended the application of Cap. 15 as a result of the turbulent political situation and particularly the Turkish invasion of 1974. Currently, suspension of the said statute's provisions concerns claims relating to movable or immovable assets situated in the areas outside the control of the Government of the Republic of Cyprus.

As far as torts are concerned, the Torts Law, Cap. 148, provides for an action to be raised in respect of any civil wrong within three years after the act, neglect or default concerned or within three years following the ceasing of fresh continuing damage.

Time limits are treated as a procedural law issues and give the defendant the right to request the rejection of the action where such has been filed outside the prescribed limitation period.

### 3 Commencing Proceedings

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

Proceedings are commenced by filing originating process, with the registrar at the Competent District Court having jurisdiction to hear the case and service upon the defendant within one year from filing. Substitute service is available upon application by the claimant and leave of the court. Regarding defendants outside the jurisdiction, the claimant must apply for leave to seal the Writ of Summons and serve leave outside the jurisdiction.

Council Regulation (EC) No. 1393/2007 of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters is a European Union Regulation in the field of judicial cooperation and is fully applicable as regards serving civil proceedings commenced in Cyprus against defendants in the EU.

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

Cypriot courts may grant interim orders of a prohibitory or mandatory nature and must be applied for following the filing of the main proceedings. To obtain an injunction, the applicant must be able to demonstrate the following to the court:

- there is a serious question to be tried;
- there is a probability that the claimant is entitled to the relief sought; and
- it will be difficult or impossible to award justice at a later stage without the granting of the interim injunction.

Moreover, that the relief sought by the application is of an urgent nature and that all material information has been disclosed to the court.

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

Every pleading shall only contain a statement in the form of a

summary of the material facts upon which the claimant is basing his claim and not evidence by which the material facts are to be proven. It must also state and show grounds for the particular relief sought. Dates and numbers must be expressed in figures, not words.

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

Amending pleadings is governed by O.25 of the Civil Procedure Rules and any such amendment may be allowed by the Court at any stage of the proceedings within a timeframe, in such a manner and on such terms as may be fair and necessary for the purpose of determining the issues between the parties. Any such application for amending the pleadings might be rejected if the court finds that the applicant has unreasonably delayed in filing such. The amended pleading must be delivered to the opposite party within the set time limit.

## 4 Defending a Claim

#### 4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

Subject to the provisions of Order 19, a statement of defence must not only include a general denial of the grounds alleged by the statement of claim, but must also deal specifically with each allegation of fact, the truth of which is not admissible, except as regards damages. Therefore, the denial of an allegation in a statement of defence must be accompanied with an answer to the point of substance. A defendant in an action can bring a counterclaim against the claims of the claimant and any such claim has the same effect as a cross-action.

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

In a case where a defendant has filed an appearance, the statement of defence must be served within 14 days from the time fixed for appearance or from the delivery of the statement of claim, whichever is the latest, unless the court allows an extension of the time limit or in the case of an action in which the Writ of Summons has been specially endorsed, a summons for judgment under Order 18 is served by the claimant in the meantime.

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

Where a defendant wishes to make a claim of his own against any person not already a party to the action in addition to defending an action, he may do so provided that:

- he is entitled to a contribution or indemnity;
- he is entitled to any relief or remedy relating to or connected with the original subject matter of the action; or
- any question or issue relating to or connected with the said subject matter is the same as some issue arising between the claimant and the defendant and should be properly determined between the claimant, the defendant and the third party.

A third party application must be filed within a month of the date when the statement of claim is filed.

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

In the case where the defendant does not file an appearance or statement of defence within the prescribed time limits, then the claimant may file an application for a judgment in default.

Following such application, the matter is fixed for proof and on that day, the claimant may prove his case, either by filing an affidavit or by giving oral evidence. The judgment in default can be set aside by the judge if the defendant can evidence good reasons for not filing his defence and he can show he has a good defence to the claim against him.

#### 4.5 Can the defendant dispute the court's jurisdiction?

A defendant may request leave from the court to file a conditional appearance, in this way disputing the court's jurisdiction. He can then file an application to stay the proceedings because of lack of jurisdiction. According to the Supreme Court in *Papakokkinou v Landbroke Group PLC and others* (1995) 1 CLR 1090, a party may dispute jurisdiction by obtaining leave from the court giving directions for filing an application of stay within a given time limit or by filing the application for a stay at the same time as entering a conditional appearance.

The most common grounds for disputing jurisdiction are a lack of jurisdiction or the pending of the same case in a court of another state or the existence of an exclusive jurisdiction clause in the disputed agreement. If the defendant omits to file a conditional appearance, as prescribed by the Civil Procedure Rules, he will not be entitled to dispute the jurisdiction.

The provisions of Regulation No. 44/2001 as to jurisdiction can be invoked for disputing the court's jurisdiction.

## 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?

According to the Civil Procedure Rules, a person may be joined into an ongoing action as a claimant on condition that the right to relief arises from the same transaction. Where claimants bring separate actions, actions may be joined where a common question of law or fact arises in these actions. Moreover, it provides that a claimant has the right to join as co-defendant any person against whom he has the right to relief.

Order 14 of the Civil Procedure Rules provides that when two or more actions are pending in the same court, whether by the same or different claimants against the same or different defendants, and the claims of these actions involve such a common question of law or fact which renders it desirable that the actions should be consolidated, the Court has the discretion to order the consolidation of these actions. In any case, the pleadings must be amended accordingly.

An interested party may also apply to the court for leave to intervene under Common Law.

#### 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?

In actions brought by the same persons against different defendants

in respect of connected causes of action by different claimants against the same defendant arising out of the same incident, the court can exercise its discretionary powers to order consolidation. Consolidation may be ordered by the court provided that it appears that common questions of law or fact of sufficient importance in proportion to the rest of the matters at issue make it desirable that the actions be heard together.

#### 5.3 Do you have split trials/bifurcation of proceedings?

Under Order 30 r.2 (g) of the Civil Procedure Rules, Cypriot courts have the discretion to order the splitting of trials, either on their own initiative or upon application by the parties in a case where this would be in the interest of justice.

## 6 Duties & Powers of the Courts

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

A scale allocation system under which proceedings before Cyprus Courts are allocated according to the value of the claim between District Judges, Senior District Judges and Presidents. The scales are as follows:

- up to EUR 500;
- from EUR 500 to EUR 2,000;
- from EUR 2000 to EUR 10,000;
- from EUR 10,000 to EUR 50,000;
- from EUR 50,000 to EUR 100,000;
- from EUR 100,000 to EUR 500,000;
- from EUR 500,000 to EUR 2,000,000; and
- EUR 2,000,000 and above.

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

Courts in Cyprus have inherent jurisdiction to control the procedure before them towards ensuring that proceedings are not abused or used to achieve injustice. This discretionary power of the Courts to manage cases before them is called a Summons for Directions (Order 30 r.2), under which the court may:

- make such order with regard to admissions of facts and of documents as may be necessary or desirable with regard to the issues raised in the pleadings;
- direct that any particular fact or facts may be proven by an affidavit, or that the affidavit of any witness may be read at the trial on such conditions as the court or judge may think reasonable, or that any witness whose attendance in court ought for some sufficient ground to be dispensed with be examined before a commissioner or examiner;
- record any consent of the parties, either wholly excluding their right of appeal or limiting it to questions of law only;
- direct either party to apply to the registrar within a specified time to fix the case for trial and/or direct the registrar to fix it at short notice; or
- make any other such order with respect to the proceeding, to be taken in the action, and as to the costs thereof, as may seem necessary or desirable with a view to saving time and expense.

The interim applications available to the parties are:

- security for costs;

- amendment of pleadings;
- striking out pleadings;
- discovery and inspection of documents;
- better and further particulars;
- interim injunctions; and
- an Anton Piller Order.

Each step in litigation proceedings bears costs which vary depending on the scale of the claim.

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

Cypriot courts can award cost orders against a party disobeying its directions or orders, or can issue a strike out order or draw adverse inferences in appropriate circumstances. In the case where a party breaches an injunction and is in contempt of court, this is punishable by imprisonment or sequestration.

### 6.4 Do the courts in Cyprus have the power to strike out part of a statement of case? If so, in what circumstances?

Under Order 19 r.26 and Order 27 r.3 of the Civil Procedure Rules, Cyprus Courts have the power to strike out part of a pleading, strike out a pleading in its totality and enter a judgment or dismiss an action. The grounds for such are as follows:

- the proceedings are irrelevant, frivolous, vexatious or scandalous;
- there is no reasonable cause of action;
- there is a tendency to prejudice, embarrass or delay the fair trial of the action; or
- there is abuse of the process of the Court.

### 6.5 Can the civil courts in Cyprus enter summary judgment?

Under the Civil Procedure Rules (Order 18), Cyprus Courts can enter a summary judgment in favour of the claimant without the need to prove his case at trial. This is possible where the claimant can show that there is no defence and by an application filed in due course.

In case the defendant can prove that he has a *bona fide* defence, then the court may give him conditional or unconditional leave to defend. Otherwise, the court may issue a judgment for the claimant or this might be subject to a stay of execution pending the trial of a counter-claim. Finally, the court may dismiss the application.

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

Under the Civil Procedure Rules (Order 15), the claimant may, at any time prior to being served with the defendant's defence, wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint and he shall pay the defendant's any costs of the action, or if the action is not wholly discontinued, the costs occasioned by the matter so withdrawn.

The claimant can also discontinue his action following receipt of the defendant's pleaded defence, before taking any other proceeding in the action, save any interlocutory application, and he may discontinue without leave and bring a second action. He must, however, pay the costs of the first action or the second action will be stayed.

The provisions of Regulation No. 44/2001 give a national court the power to stay proceedings before they are fully applicable.

## 7 Disclosure

### 7.1 What are the basic rules of disclosure in civil proceedings in Cyprus? Are there any classes of documents that do not require disclosure?

Under the Civil Procedure Rules (Order 28) a party to litigious proceedings may apply to the Court for an order requiring the other party, within a period of time from that date, to make discovery on oath of the documents which are or have been in their possession or power relating to the matters in question in the action and to inspect the documents set out in the affidavit for discovery. This procedure is called 'Discovery and Inspection' and subject to claims for privilege and admissibility. Each party may use these documents to support his case.

If a party ordered to disclose documents fails to do so, he cannot use any document he failed to disclose or allow it to be inspected as evidence on his behalf in the action, unless the Court is satisfied that he had sufficient excuse for failing to do so.

### 7.2 What are the rules on privilege in civil proceedings in Cyprus?

Privilege covers the following documents and/or information:

- Documents that are confidential information between lawyer and client for purposes of the litigation (litigation privilege).
- Confidential information between lawyer and client (legal professional privilege).
- Documents that tend to self-incriminate or subject someone to a penalty.
- Any "without prejudice" communications either orally or in writing.

These documents are privileged from inspection.

### 7.3 What are the rules in Cyprus with respect to disclosure by third parties?

Under the Civil Procedure Rules (Order 32), a third party may be summoned to produce a document without being summoned to give evidence. The third party summoned to produce such a document shall be deemed to have complied with the summons if he causes the document to be produced, instead of attending personally to produce it.

### 7.4 What is the court's role in disclosure in civil proceedings in Cyprus?

Under the Civil Procedure Rules, the court's role in disclosure in Civil Procedure is to hear applications by the parties for discovery and inspection of documents and rule over whether discovery is necessary at that stage of the proceedings or issue such an order, either generally or limited to certain classes of documents, at its discretion.

### 7.5 Are there any restrictions on the use of documents obtained by disclosure in Cyprus?

Save for privileged documents, there are no restrictions with regard to the use of documents obtained by disclosure in Cyprus.

## 8 Evidence

### 8.1 What are the basic rules of evidence in Cyprus?

Under Cyprus law, evidence consists of information by which certain facts are proven or disproven. These facts are subdivided into three categories:

- facts at issue;
- relevant facts. ('circumstantial evidence'); and
- collateral facts.

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

Admissible evidence includes:

- oral evidence (witnesses on oath, expert witnesses, hearsay evidence);
- documentary evidence ("public" and "private" documents); and
- real evidence (inspection of physical objects by the court).

With regard to expert evidence, in particular, the opinion of an expert is generally admissible:

- whenever an issue comprises a subject of which knowledge can only be acquired by special training or experience;
- whenever the area concerned constitutes an established area of expertise; and/or
- whenever the expert witness has made a special study of the subject, or acquired special evidence therein.

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

Witnesses normally give oral evidence usually on oath or affirmation. Following a recent amendment of Cyprus' evidence law, a witness can now make a written witness statement. Witnesses giving evidence at trial are cross-examined before the court by the opposite party and re-examined by the party calling him, and after re-examination, they may be questioned by the court.

Witnesses are served with a witness summons in order to attend for examination, or to produce any document. In case a witness has been duly summoned but refuses to attend the Court, it may issue a warrant of arrest compelling him to appear before it.

### 8.4 What is the court's role in the parties' provision of evidence in civil proceedings in Cyprus?

Order 36 of the Civil Procedure Rules stipulates that the courts may order for:

- any particular fact or facts be proven by an affidavit;
- the affidavit of any witness may be read at the hearing or trial;
- any witness whose attendance in court ought for some sufficient cause to be dispensed with be examined by interrogators or otherwise before a commissioner or examiner; and
- where any witness is in a country with which a convention in this regard has been or shall be extended to Cyprus, the court may order such a witness to be examined before the competent court or authority of such country or before any person appointed by such a court or authority.

Cyprus courts also have the power to make orders for the discovery and inspection of documents.

## 9 Judgments & Orders

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

Cyprus courts have the power to issue Judgments in Default and Summary Judgments.

A court judgment can be with regard to liquidated or unliquidated demands or it may be an order for one of the parties to perform its outstanding obligations under a contract or declaratory judgment (determining rights in the actual circumstances of which the court has cognisance).

A variety of orders are available in the Cyprus courts, such as:

- Mareva injunctions (restraining a party from removing his assets out of the jurisdiction), prohibitory injunctions (prohibiting a party from doing an act), mandatory injunctions (ordering a party to perform an act);
- Anton Piller orders (enabling the claimant to secure the preservation of relevant evidence which might otherwise be destroyed by the defendant); and
- Mandamus orders (commanding the defendant to fulfil any public duty in the fulfilment of which the claimant is personally interested).

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

The Cyprus courts have the power to award damages for loss suffered, including financial loss. They are also empowered to award punitive and exemplary damages under certain circumstances. Further, in a monetary judgment involving a contract, the Court usually awards interest, as provided for in the contract or from the date when the judgment is given, as provided by the relevant legislation.

With regard to the costs, the principle is that the successful litigant is awarded an order against the unsuccessful litigant to pay the costs of the litigation (see question 1.5 above).

### 9.3 How can a domestic/foreign judgment be enforced?

A domestic judgment may be enforced:

- by seizure and sale of movable property;
- by sale of immovable property;
- by attachment and sequestration;
- by attachment of debt or property;
- by Writ of Possession of the land ordered to be delivered to the judgment creditor;
- by Writ of Delivery of the goods ordered to be delivered to the judgment creditor;
- by committal for breach of an order or undertaking;
- by registration of a charging order over the immovable property of the judgment debtor (memo) or over his chattels; or
- by bankruptcy proceedings against the judgment debtor.

The enforcement of a foreign judgment is governed by bilateral or multilateral treaties to which Cyprus is a contracting party. Under statute, the registration of foreign judgments can be effected under

the Foreign Judgments, (Reciprocal Enforcement) Law, 1935, Cap. 10. Moreover, Common Law principles for recognition and enforcement of judgments are also applicable.

Inevitably, Regulation (EC) no. 44/2001 is also applicable as regards judgments obtained from the court of an EU Member State. Moreover, the application of Council Regulation (EC) no. 805/2004 on creating a European Enforcement Order for uncontested claims is also noted. The latter Regulation provides that when a judgment has been certified as a European Enforcement Order by the Court of origin, it should, for enforcement purposes, be treated as if it had been delivered in the Member State in which enforcement is sought.

#### 9.4 What are the rules of appeal against a judgment of a civil court of Cyprus?

Pursuant to Order 35 of the Civil Procedure Rules, an appeal arising from any interlocutory order, or from an order, final or interlocutory, must be filed within fourteen days as of the date of the judgment or decision and an appeal against a judgment on the merits must be filed within six weeks of the date of the judgment.

## II. DISPUTE RESOLUTION

### 1 Preliminaries

#### 1.1 What methods of dispute resolution are available and frequently used in Cyprus? Arbitration/Mediation/Tribunals/Ombudsman? (Please provide a brief overview of each available method.)

Mediation and Conciliation not used to any adequate extent, leaves Arbitration as being the alternative dispute resolution method in Cyprus other than litigation.

For a dispute to be referred to arbitration, there must be an agreement between the parties, which must contain an arbitration clause. In case the parties commence legal proceedings in any Court with respect to the Arbitration Agreement, the Courts have the power to stay these proceedings and refer the case to be tried by an arbitrator. However, this power is discretionary and if the Courts are satisfied that there are good and sufficient reasons for the dispute not to be referred to arbitration, they shall exercise their power.

If however the dispute is referred to arbitration, then any arbitration award can be enforced by registration as a Court judgment. Registration may be effected by an application by summons filed by the creditor. This application can be opposed by the debtor on grounds relating to the validity of the award.

When the arbitration award is finally registered, then it is considered to be a Court judgment and can be executed as such.

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

All matters relating to arbitration proceedings in Cyprus are governed by the Arbitration Law, Cap. 4, which applies to domestic arbitration. As regards international arbitration, the applicable statute is the International Commercial Arbitration Law 101/1987, which applies to international arbitration; and the Labour Dispute Law, Cap. 187, which applies to labour arbitration.

#### 1.3 Are there any areas of law in Cyprus that cannot use arbitration/mediation/tribunals/Ombudsman as a means of dispute resolution?

In Cyprus, all commercial matters, including competition law, are arbitrable where there is an arbitration agreement between the parties.

Disputes concerning criminal and family matters are non-arbitrable.

## 2 Dispute Resolution Institutions

#### 2.1 What are the major dispute resolution institutions in Cyprus?

There are no specific dispute resolution institutions in Cyprus. The arbitration court is a private tribunal of the parties' own choice.

#### 2.2 Do any of the mentioned dispute resolution mechanisms provide binding and enforceable solutions?

Arbitration awards, after they are registered and enforced, are then considered as Court judgments. They become binding and can be executed by the same methods as Court judgments.

## 3 Trends & Developments

#### 3.1 Are there any trends in the use of the different dispute resolution methods?

The use of arbitration proceedings has increased in recent years and it is expected that these will take place increasingly frequently. Currently, the trend is to use arbitration in certain commercial cases, particularly in building contract disputes.

#### 3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those dispute resolution methods in Cyprus.

Courts have indicated in numerous occasions that they might favour the referral to arbitration of specialised 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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**Anastasios Antoniou LLC** is a boutique Cyprus law firm advising on all aspects of Cyprus Law, EU Law and International Law. Beyond commercial and corporate law, the Firm specialises in the fields of competition law, energy, information technology and e-commerce, telecommunications and media, environmental law and intellectual property. What sets the Firm apart is its commitment to the provision of comprehensive legal solutions to contemporary legal challenges in a clear, reliable and unequivocal manner. The Firm has a dedicated litigation practice ensuring protection of its Clients' best interests. Formulating client relationships founded on trust, reliability and integrity is a pivotal element of how Anastasios Antoniou LLC practices the law.

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