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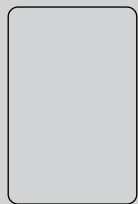
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Dispute Resolution 2021

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Lexology Getting The Deal Through is delighted to publish the nineteenth edition of *Dispute Resolution*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Israel, New York, Slovenia and Ukraine.

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Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Martin Davies and Alanna Andrew of Latham & Watkins LLP, for their continued assistance with this volume.



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LITIGATION

Court system

1 | What is the structure of the civil court system?

The court system in Cyprus has two tiers. The lower tier, the subordinate courts, is composed of the district and specialised courts. The second and final tier is the Supreme Court.

The district courts have jurisdiction to hear first instance civil actions, which do not fall under the exclusive jurisdiction of a specialist court. The specialised courts include the Labour Court, the Family Court, the Rent Control Court, the Military Court and the newly formed Administrative Court, which acts as the Administrative and Tax Court.

First instance civil proceedings before district courts are heard by a single judge.

The Supreme Court acts as the final appellate court, with jurisdiction to hear and decide on appeals from subordinate courts. It also has jurisdiction to act as the Supreme Constitutional Court and as the Admiralty Court. The Supreme Court comprises 13 members, one of whom acts as its president. Appeals, unless otherwise decided, are heard by a panel of three judges.

Judges and juries

2 | What is the role of the judge and the jury in civil proceedings?

The Cypriot trial system is adversarial in nature and consequently judges act only as umpires between the parties. There are no jury trials in Cyprus. All civil cases before district courts are tried by a single judge sitting without a jury.

All judges except those of the Supreme Court are appointed by the Supreme Council of Judicature, a body composed of the judges of the Supreme Court. This body is responsible for the appointment, promotion, transfer, discipline and dismissal of judges. Supreme Court judges are appointed by the President of the Republic, from within the ranks of the judiciary, upon recommendation from the Supreme Court.

There are currently no formal procedures or initiatives to promote diversity on the bench in Cyprus. The current ratio of male to female judges is approximately 60:40.

Limitation issues

3 | What are the time limits for bringing civil claims?

The time limits within which claims must be brought before a court are currently prescribed by the Limitation of Causes of Action Law of 2012 (Law 66(I)/2012), which entered into force on 1 July 2012. According to article 3 of the 2012 law, the limitation period of a claim commences from the date the cause of action accrued. Article 4 provides for a general time limit of 10 years, unless otherwise provided in the Law

of 2012 or any other law. The Law of 2012 and other laws provide for specific time limits for particular causes of action.

For instance:

- torts: there is a six-year limitation period from the date when the cause of action accrued except for cases of negligence, nuisance and breach of statutory duty, where there is a three-year limitation period from the date when the injured person became aware of the cause of action;
- contract: there is a six-year limitation period from the date when the cause of action accrued;
- mortgage, pledge: there is a 12-year limitation period from the date when the cause of action accrued; and
- bills of exchange, etc: there is a six-year limitation period from the date when the cause of action accrued.

The above limitation periods may be extended by the court by two years where the court considers this to be just and reasonable in all the circumstances.

Parties cannot agree to suspend the time limits. Nevertheless, time limits may be suspended if the parties fall within one of the categories provided by article 12 of the Law of 2012 (eg, cohabiting partners, spouses during marriage, or parents and children where the children are minors).

The transitional provisions of the Law of 2012 provide that all limitation periods will start counting from 1 January 2016.

Pre-action behaviour

4 | Are there any pre-action considerations the parties should take into account?

Despite there being no general pre-action protocols or procedural formalities that must be followed prior to the initiation of proceedings in Cyprus, parties must bear in mind that in certain specialist proceedings (eg, winding-up proceedings or tenant evictions), there are specific procedures that must be followed prior to the commencement of the proceedings.

Courts in Cyprus may grant pre-action discovery orders, such as *Norwich Pharmacal* orders, to assist a party in bringing an action.

Starting proceedings

5 | How are civil proceedings commenced? How and when are the parties to the proceedings notified of their commencement? Do the courts have the capacity to handle their caseload?

Commencement of proceedings

Civil proceedings in Cyprus are commenced by filing a writ of summons, which provides for the extent and nature of the claim and the remedy or relief sought, with the registrar of the district court that has jurisdiction

to adjudicate upon the case. The writ of summons may be either generally endorsed and include merely the relief sought, or specially endorsed and provide for the particulars of both the relief sought and the basis upon which that relief is being sought.

Notification of commencement and service of a claim

The persons against whom proceedings are commenced are notified of the proceedings via personal service of the writ of summons on them, namely delivery of a copy of the writ to the person being served by a private bailiff.

In general, the writ of summons must be served within 12 months of its filing. The 12-month limit can, however, be extended for an additional six months if the plaintiff obtains permission from the court. The deemed date of service is the date on which the private bailiff served the writ of summons on the person being served.

If personal service is not feasible, an application can be made to the court for an order for substituted or other services (such as service through public advertisement, placing a notice on the board of the court, email or other).

In circumstances where the party to be served is located outside Cyprus, such service shall only be made after leave to do so has been obtained from the court. The court must be satisfied that there is a proper case for service outside Cyprus, that the plaintiff has a prima facie good cause of action against the defendant and that the defendant may be found in a particular country and place outside Cyprus. What is served outside the jurisdiction to a non-Cypriot defendant is not a writ of summons but a notice of a writ of summons.

Courts' caseload

Further to a recent amendment of the Civil Procedure Rules, a 'small track' was established with a simplified procedure for claims under €3,000. The amendment, with a view to making the process more expedient, increased the case management options available to the judges in such cases, allowing them to give summary judgments.

The current delay for civil actions is between three and five years.

Timetable

6 | What is the typical procedure and timetable for a civil claim?

Civil proceedings are initiated by filing a writ of summons that must subsequently be served on the defendants. Provided the defendant is within the jurisdiction of Cyprus, he or she is required to enter his or her appearance within 10 days from the date on which the writ of summons was served on him or her.

If the writ of summons is generally endorsed, the plaintiff must file and deliver to the defendant a statement of his or her claim, containing particulars of the relief or remedy that is sought and the basis upon which that relief is being sought, within 10 days from the defendant filing his or her appearance. Subsequently, the defence or the defence and counterclaim of the defendant must be filed and delivered to the claimant within 14 days from the filing of the statement of claim.

If the plaintiff files a writ of summons specially endorsed, then the defendant must file and deliver a defence and, if desired, a counterclaim within 14 days from filing an appearance. In both instances, the claimant may file a reply to the defendant's defence within seven days of delivery of the defence (where there is no counterclaim), and shall file a defence to the defendant's counterclaim and a reply to the defendant's defence within 14 days from the delivery of the defendant's defence and counterclaim.

Once the pleadings are completed, the parties may apply to the court for directions preparatory to the trial, including for discovery and inspection of documents, filing of witness statements etc.

During the main trial of a typical proceeding, each side is allowed to present its witnesses, who may be subject to cross-examination by the other side. Once all testimony is completed, the parties will be invited to present their final submissions to the court in support of their arguments.

During the proceedings, various interlocutory applications may be filed by the parties. If such applications are opposed by the other party, a hearing will be conducted for the court to determine whether to issue the requested orders or allow the applications.

Case management

7 | Can the parties control the procedure and the timetable?

The procedure and the timetable of the claim are dictated by the court. Nevertheless, the timetable of a claim can be influenced by the number of interlocutory applications or other procedural steps of either party in the proceedings.

Evidence – documents

8 | Is there a duty to preserve documents and other evidence pending trial? Must parties share relevant documents (including those unhelpful to their case)?

Any party may apply to the court for an order directing any other party to any cause or matter to make discovery on oath of the documents that are, or have been, in his or her possession or power relating to any matter in question therein. That application can be made at any time after the commencement of the proceedings. There are no particular classes of documents that do not require disclosure, but the discovery is subject to privilege and admissibility rules. If a party ordered to make discovery of documents fails to do so, he or she cannot later be at liberty to submit evidence in the action or allow any document that he or she failed to discover to be inspected, unless the court is satisfied that he or she had reason for not disclosing the said document.

Evidence – privilege

9 | Are any documents privileged? Would advice from an in-house lawyer (whether local or foreign) also be privileged?

A document may be covered by privilege, and as such, a party may refuse to produce it for inspection, on any one of the following grounds:

- litigation privilege;
- legal professional privilege;
- without prejudice communications;
- self-incrimination privilege;
- public interest immunity; and
- confidential nature.

Evidence – pretrial

10 | Do parties exchange written evidence from witnesses and experts prior to trial?

Parties do not normally exchange evidence from witnesses prior to trial, except for situations where it is their intention to adopt written statements in the course of the examination of the witnesses they have called upon to give oral evidence and the court has ordered that such statements are exchanged between the parties prior to the hearing.

With regard to experts, the reports of those witnesses are usually exchanged prior to trial, as their cross-examination is based on the content of their reports.

Evidence – trial

11 | How is evidence presented at trial? Do witnesses and experts give oral evidence?

The general rule is that all evidence, whether oral, documentary or real, must be brought before the court during the hearing of an action. That evidence must be the best possible evidence at hand, must be admissible and must be relevant to the facts in issue. Witnesses, whether expert or of fact, are called to the court for examination or to produce a certain piece of evidence. The witness is first examined by the party that has called him or her and may then be cross-examined by any other party in the proceedings. The witness may then be re-examined by the party at whose instance he or she was called to give evidence.

For an expert witness to give evidence before the court, it must be shown, to the satisfaction of the court, that expert evidence is necessary for the proceedings to be disposed of and that the person in question has the necessary knowledge and skills to give such evidence. The expert may bring to court an expert report, which he or she then adopts under oath.

Interim remedies

12 | What interim remedies are available?

Cyprus courts have a wide discretion to issue any interim orders they deem just and reasonable in all circumstances, including the following:

- freezing injunctions (with either local or worldwide application);
- prohibitory and mandatory injunctions;
- appointment of an interim receiver or a provisional liquidator;
- search orders; and
- orders for the discovery and inspection of documents.

Interim remedies are available in support of foreign proceedings, where the courts have jurisdiction in that regard by virtue of a Cyprus law or a relevant international or bilateral treaty. In particular, interim relief can be sought in aid of foreign proceedings in the European Union, Norway and Switzerland by virtue of relevant European regulations, and in aid of international arbitration proceedings by virtue of Cyprus law.

Remedies

13 | What substantive remedies are available?

The following substantive remedies are available, inter alia:

- declarations of rights or liabilities between the parties;
- general or special damages as compensation for any losses or injuries suffered by the plaintiff;
- orders for restitution of any gains or benefits acquired by the defendant;
- injunctive relief; and
- specific performance orders.

Interest is payable on money judgments.

Enforcement

14 | What means of enforcement are available?

A money judgment may be enforced in one or more of the following manners:

- by a writ of movables, namely the seizure and sale of movable property;
- by registering the court's judgment on immovable property in the Land Registry;
- by a writ of sale of immovable property;

- by a writ of attachment, namely the seizure or payment of movables or debts owed to the judgment debtor by a third party;
- by a charging order over shares and an order for the sale of the shares;
- by an order for repayment of the debt in question via monthly instalments; or
- by appointing a receiver by way of equitable execution.

With regard to judgments other than money judgments, compliance with the court's orders may be achieved via contempt proceedings. The court, following a finding of contempt, may order the imprisonment of, the sequestration of the assets of, or the payment of a fine by anyone who does not act in conformity with a court order, including an interim order.

Additionally, a court may remove a person's right to be heard in the proceedings if he or she is found to be in contempt of a court order.

Public access

15 | Are court hearings held in public? Are court documents available to the public?

By virtue of article 30(2) of the Constitution, court hearings are generally held in public. Nevertheless, court documents are only available to the parties to the proceedings.

Costs

16 | Does the court have power to order costs?

The court has wide discretion to award costs, depending on the particular circumstances of the proceedings and the conduct of the parties; however, the general rule is that the losing party bears the costs of the proceedings.

The costs involved in civil court proceedings vary, depending on how protracted the case proves to be and the time dedicated by the lawyer handling the case.

The amount of costs awarded by the court is calculated on the basis of court fixed-fee scales, depending on the value of the claim. These describe the service provided throughout the proceedings and set out the minimum and maximum charges for each particular step.

Despite this, in practice, the costs recovered on the basis of the court's scales only cover a very small portion of the actual costs, including legal fees, paid by the client for the purposes of the proceedings. This is the case especially in commercial litigation where the value of the claim is very high.

An application for security for costs can be made by a defendant against a claimant (and by a claimant against a defendant in respect of a counterclaim that is not merely in the nature of a set-off) at any stage of the action where:

- the respondent is ordinarily resident outside of Cyprus or any other European member state;
- the respondent has no assets in Cyprus to satisfy any order as to costs that is made against him or her;
- the respondent is acting through a nominal plaintiff or defendant; and
- where the court orders security for costs to be given, it may stay the proceedings until such security is given and may dismiss the proceedings where the time period for providing such security has expired.

The current framework on costs was revised in 2017.

Funding arrangements

- 17 | Are 'no win, no fee' agreements, or other types of contingency or conditional fee arrangements between lawyers and their clients, available to parties? May parties bring proceedings using third-party funding? If so, may the third party take a share of any proceeds of the claim? May a party to litigation share its risk with a third party?

Funding of litigation proceedings is normally arranged for by the parties. A lawyer may negotiate his or her legal fees for litigation proceedings and can reach any special arrangement or retainer freely with his or her client, failing which the matter will be governed by the rules of the court and the court's fixed-fee scales.

The Cypriot courts have not yet considered the issue of conditional or contingency fee agreements; however, it is assumed that such arrangements are not permissible, as they offend the equitable principle against champerty. Champerty is an agreement where a person who maintains an action takes, as a reward, a share in the property recovered in the action. Accordingly, lawyers involved in the conduct of litigation are precluded from taking a share in the property recovered in the action pursuant to a conditional fee agreement.

Similarly, third-party funding is not available in Cyprus because of the application of the aforementioned principle of champerty, which, coupled with the principle of 'maintenance', aims to restrict the selling and funding of litigation (the principle of 'maintenance' precludes a person from maintaining a case without just cause or excuse). On that basis, third-party funding and assignment of a cause of action are not permissible.

However, the matter is not regulated and there is no case law or other precedent on the above.

Insurance

- 18 | Is insurance available to cover all or part of a party's legal costs?

Although it is permissible to take insurance to cover legal costs, this course is not normally followed in Cyprus and may not be practically available.

Class action

- 19 | May litigants with similar claims bring a form of collective redress? In what circumstances is this permitted?

Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may be authorised by the court to sue or defend in such cause or matter, on behalf or for the benefit of all persons so interested, provided a power of attorney signed by the persons to be represented is filed in court.

In such proceedings, the persons represented shall be bound by the judgment of the court and the same may be enforced against them in all respects as if they were parties to the action.

Appeal

- 20 | On what grounds and in what circumstances can the parties appeal? Is there a right of further appeal?

An appeal of any interim decision must be brought within a strict time limit of 14 days from the date the relevant judgment or order was issued. Any other appeal of a judgment on the merits of the case must be brought within 42 days from the date the relevant judgment was issued. The court may, upon a relevant application, extend the time limit for filing an appeal.

Appeals are brought by filing a written notice to the registrar of the court appealed from. That notice shall specify the part of the judgment

or order being appealed and the grounds of appeal. The notice shall then be served on any party that is directly affected by the appeal.

The appellant may appeal the whole or part of any judgment or order. An appeal may be made against the findings of specific facts if the appellant considers that there was insufficient evidence to support the decision, or it may be made against specific points of law.

Appeals are currently heard by the Supreme Court and there is currently no right to further appeal.

Foreign judgments

- 21 | What procedures exist for recognition and enforcement of foreign judgments?

A foreign judgment or order issued by a European court can be recognised and enforced in Cyprus pursuant to the provisions of the European Judgment Regulations and other European regulations on specialised proceedings (such as the European Regulations on Insolvency Proceedings). As the Judgment Regulations do not require any specialised procedure for the recognition of foreign judgments, normally, European court judgments can be directly enforced in accordance with the local procedures.

A non-European judgment or order may be recognised and enforced in Cyprus pursuant to bilateral or multilateral agreements that Cyprus has ratified. Alternatively, a separate action may be initiated in Cyprus regarding the same cause of action brought in the foreign jurisdiction.

Foreign proceedings

- 22 | Are there any procedures for obtaining oral or documentary evidence for use in civil proceedings in other jurisdictions?

Pursuant to bilateral or multilateral treaties or EU regulations, Cyprus courts may provide assistance in connection with foreign proceedings via the gathering of evidence in Cyprus, on the basis of letters rogatory or other letters of request sent by the foreign court.

ARBITRATION

UNCITRAL Model Law

- 23 | Is the arbitration law based on the UNCITRAL Model Law?

The law governing domestic arbitrations, Chapter 4, was enacted when Cyprus was a British colony and is, therefore, very similar to the English Arbitration Act 1950.

In 1987, Cyprus adopted UNCITRAL's Model Law on International Commercial Arbitration, dated 21 June 1985, by enacting the International Commercial Arbitration Law No. 101/87. The legal framework governing international commercial arbitration proceedings is, therefore, almost identical to the UNCITRAL Model Law. In that regard, Law No. 101/87 adopts the Model Law's guiding footnote with respect to the meaning of the term 'commercial'.

Arbitration agreements

- 24 | What are the formal requirements for an enforceable arbitration agreement?

Both Chapter 4, which applies to domestic arbitrations, and Law No. 101/87, which applies to international commercial arbitrations, provide for an arbitration agreement in 'writing'.

Law 101/87 defines an 'arbitration agreement in writing' as follows:

An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex,

telegrams, or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

Chapter 4 does not define the term 'arbitration agreement in writing'.

Choice of arbitrator

25 | If the arbitration agreement and any relevant rules are silent on the matter, how many arbitrators will be appointed and how will they be appointed? Are there restrictions on the right to challenge the appointment of an arbitrator?

Appointment of an arbitrator

In international commercial arbitrations, pursuant to Law No. 101/87, where the arbitration agreement does not specify the composition of the arbitral tribunal, the arbitral tribunal shall be constituted of three arbitrators.

If there is no specified procedure for the appointment of the arbitral tribunal, the default appointment procedure provided for under article 11(3) of Law No. 101/87 applies as follows:

- In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon request of a party, by the court.
- In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he or she shall be appointed, upon request of a party, by the court.

Domestic arbitrations, pursuant to Chapter 4, are heard by a single arbitrator, where the arbitration agreement is silent on the matter. Article 10 of Chapter 4 provides that Cypriot courts will intervene in the appointment process if:

- the parties fail to agree on the appointment of an arbitrator where the arbitration agreement provides for the appointment of a single arbitrator;
- an arbitrator appointed by the parties refuses to act or is incapable of acting or passes away and the parties fail to appoint another in his or her place;
- the parties or two arbitrators fail to appoint an umpire or a third arbitrator; and
- the appointed umpire refuses to act or is incapable of acting or passes away and the parties or the arbitrators fail to appoint another in his or her place.

Challenge on the appointment of an arbitrator

In international arbitrations, pursuant to Law No. 101/87, the exemption of an arbitrator may be proposed to the arbitral tribunal only where circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence, or if he or she does not possess the qualifications agreed to by the parties. If the arbitrator in question does not resign or the other parties in the arbitration proceedings do not agree with the exemption proposal, the arbitral tribunal rules upon the exemption proposal.

In domestic arbitrations, pursuant to Chapter 4, any party may challenge the appointment of an arbitrator and request his or her dismissal if he or she fails to act with due speed in pursuing the arbitral

proceedings and issuing the arbitral award. Additionally, the court may remove an arbitrator who has acted improperly or has handled the case badly.

Arbitrator options

26 | What are the options when choosing an arbitrator or arbitrators?

There are no provisions in domestic arbitration laws limiting the parties' options when choosing an arbitrator. Nevertheless, the arbitration agreement may limit the options of the parties in that regard.

Arbitral procedure

27 | Does the domestic law contain substantive requirements for the procedure to be followed?

Law No. 101/87 incorporates all mandatory provisions of the UNCITRAL Model law in international commercial arbitrations. For example, article 18 requires that the parties are treated with equality and that each party is given an opportunity to present its case; article 24(1) provides a party with the right to request a hearing; and article 26 provides a party with a right to appoint and question an expert, etc.

Chapter 4 does not contain any mandatory provisions for the arbitral process to be followed but provides Cypriot courts with extensive supervisory jurisdiction over domestic arbitrations.

Court intervention

28 | On what grounds can the court intervene during an arbitration?

In international commercial arbitrations, the courts may intervene in the instances prescribed by Law No. 101/87. The main purpose of such an intervention is to ensure the proper conduct of the international arbitration, for instance by assisting in the constitution of the tribunal, deciding on the jurisdiction of the tribunal, assisting in the taking of evidence and ruling upon the validity of the arbitral award.

In domestic arbitrations, under Chapter 4, Cypriot courts have extensive supervisory jurisdiction and may intervene, upon the application of one of the parties, for the purpose of issuing, *inter alia*:

- orders for the production of documents;
- orders for submitting evidence by affidavits;
- orders for the examination on oath of any witness or the examination of a witness outside the jurisdiction;
- orders for the inspection of property that is the subject matter of the arbitration; and
- discovery orders.

Interim relief

29 | Do arbitrators have powers to grant interim relief?

Pursuant to article 17 of Law No. 101/87, an arbitral tribunal in an international commercial arbitration may, upon the application of any of the parties, issue any necessary interim measures with regard to the subject matter of the dispute.

A tribunal in domestic arbitration, operating under Chapter 4, has jurisdiction to issue any interim order including an order for the appointment of a receiver.

Award

30 | When and in what form must the award be delivered?

Timing for the award

There is no specific time limit for rendering an award under either Chapter 4 or Law No. 101/87. Nonetheless, there may be contractual limits within which such awards must be rendered.

Form of an award

Pursuant to article 31 of Law No. 87/101, an international commercial arbitration award must state the reasons upon which the award is based unless the parties have agreed otherwise or the award is an award on agreed terms. Furthermore, the award must be in writing, contain the date and place of the arbitration and be signed by all arbitrators.

Chapter 4 is silent on the form and content of domestic arbitral awards.

Appeal

31 | On what grounds can an award be appealed to the court?

In domestic arbitrations, pursuant to Chapter 4, an award may be set aside by the court where the arbitrator has acted improperly or has handled the case badly or the arbitration proceedings were conducted irregularly or the arbitral award was issued irregularly.

In international commercial arbitrations, pursuant to Law No. 101/87, an award may be set aside on the same grounds as those provided in UNCITRAL Model Law, namely:

- incapacity of the parties;
- invalidity of the arbitration agreement;
- lack of sufficient notice of the proceedings to one of the parties or other denial of a party's right to present its case (due process);
- lack of jurisdiction of the tribunal;
- the tribunal's constitution or the procedure followed for the arbitration is contrary to the arbitration agreement or the Law No. 101/87;
- non-arbitrability of the subject matter of the dispute under the laws of Cyprus; or
- the award is contrary to the public policy of Cyprus.

Enforcement

32 | What procedures exist for enforcement of foreign and domestic awards?

As a contracting party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of the United Nations of 1958 (the New York Convention), Cyprus is bound to enforce awards issued in foreign states that are contracting parties to that convention.

The New York Convention is incorporated in articles 35 and 36 of Law No. 101/87. As per article 35, the party seeking the recognition and enforcement of a foreign award must submit a relevant application supported by an affidavit, attaching the original or a certified copy of the arbitral award and the arbitration agreement as well as the translation of the same in Greek.

In domestic arbitrations, under Chapter 4, an award may, with the leave of the Cypriot court, be enforced in the same manner as a Cyprus judgment or order to the same effect. In that case, a judgment may be entered in the same terms as the terms of the award.

Costs

33 | Can a successful party recover its costs?

Overall cost allocation rests with the tribunal unless the parties agree otherwise. The general rule is that costs follow the event and are

usually dealt with by the arbitration award. The costs that are generally recoverable, subject to the arbitration agreement between the parties, are the fees and expenses of the tribunal, the fees and expenses of the arbitral institution, and the parties' legal and other costs, including costs relating to witnesses and the hearing.

ALTERNATIVE DISPUTE RESOLUTION

Types of ADR

34 | What types of ADR process are commonly used? Is a particular ADR process popular?

The methods of ADR that are available in Cyprus today are primarily arbitration and mediation.

The most widely used method is arbitration, which is mainly used by parties in various commercial fields including construction, shipping, insurance and trade. The referral of an issue to arbitration depends upon the existence of a valid and binding arbitration agreement between the parties. The arbitration process is conducted in a rather formal but strictly confidential manner that resembles litigation. The arbitral tribunal issues a decision (the arbitral award), which is binding upon the parties, after both parties have introduced evidence and presented their case before it.

Requirements for ADR

35 | Is there a requirement for the parties to litigation or arbitration to consider ADR before or during proceedings? Can the court or tribunal compel the parties to participate in an ADR process?

Even though there is no general requirement for parties to litigation to consider alternative dispute resolution before or during the proceedings, according to article 15(1)(a) of the Law on Certain Aspects of Mediation in Civil Matters (Law No. 159(I)/2012), a court before which litigation proceedings are carried out may invite the parties to the litigation to present themselves before it and inform the court as to the possibility of resolving their dispute by means of mediation.

In practice, the courts will generally refrain from forcing any party, directly or indirectly, to participate in alternative dispute resolution processes.

MISCELLANEOUS

Interesting features

36 | Are there any particularly interesting features of the dispute resolution system not addressed in any of the previous questions?

In 2015, Orders 30 and 25 of the Civil Procedure Rules were repealed with a view to expediting the case management stage of the proceedings and limiting the current delay in adjudicating civil cases. The repealed provisions of the said Orders apply with regard to all actions filed from 1 January 2016.

Further to the repealed provisions of Order 30, there is a strict time limit of 90 days from the date the pleadings are deemed 'closed' within which the claimant must issue a notice with request for procedural directions. In case of failure, within 15 days thereafter, the defendant may request the dismissal of the action. If the defendant does not proceed as such, the action will be considered abandoned and be dismissed by the court.

Upon the issuance of the notice for directions by the plaintiff and within 30 days from service of the same on the defendants, the defendants shall file a specified form with request for procedural directions.

A directions hearing must be held within 60 days from the issuance of the notice of directions by the plaintiff. During that hearing, the judge issues procedural directions on the matters requested by the parties. No party is permitted to request directions during the directions' hearing on any matter he or she did not request any directions with his or her relevant notice or form.

Thereafter, a further directions hearing shall be held for directions on the evidence to be given at trial, including directions for the filing of a list of proposed witnesses together with a summary of the evidence to be given by each.

The new provisions further provide for strict deadlines regarding the duration of examination, cross-examination and re-examination of witnesses.

The repealed Order 30 also provides for a fast-track procedure with respect to claims with value up to €3,000, which should generally be heard only on the basis of written evidence.

Further to the repealed provisions of Order 25, it is now permissible for a claimant to amend his or her writ of summons after its issuing but prior to its service without the leave of the court. Any party may also amend its pleadings once after the exchange of the pleadings and prior to the issuing of the notice for directions (pursuant to Order 30) without the leave of the court. Any party may amend its pleadings at any time thereafter upon the court's leave and merely where a bona fide error was made or where the court is satisfied that specific facts were not in existence when the document was first filed.

UPDATE AND TRENDS

Recent developments

37 | Are there any proposals for dispute resolution reform? When will any reforms take effect?

A number of reforms for the modernisation of the judiciary and the civil court system are on the government's agenda.

One of the major reforms, which is currently a work in progress, is the establishment of a Commercial Court with jurisdiction to hear commercial and corporate disputes of substantial value. The Commercial Court is expected to take up the large volume of commercial cases with cross-border characteristics, within the frames of which applications for interim orders are usually pursued.

Additionally, the Cyprus government is currently working on the establishment of a Supreme Constitutional Court, separate from the current Supreme Court. The Supreme Constitutional Court will have jurisdiction to hear cases on constitutional matters and will act as an appellate court to the Supreme Court, thereby establishing a third tier to the Cyprus court system.

Further, a number of proposals for the formalisation of the process by which the judges are being appointed, promoted, disciplined and dismissed are being pursued, with a view to promoting transparency and diversity within the judiciary.

Finally, extensive reforms to the Civil Procedure Rules are under consideration. At the same time, the lockdown measures in response to the covid-19 pandemic have expedited the implementation process of reforms on remote court hearings and electronic filing of court documents. These are expected to be completed shortly, while directions/procedural hearings have been taking place remotely for several months now.

EROTOCRITOU

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Coronavirus

38 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

In response to the pandemic, the Supreme Court of Cyprus has issued a number of procedural rules, including rules suspending all deadlines provided by the Civil Procedure Rules or set in the course of Court proceedings. As of 8 March 2021, all procedural and court deadlines ceased to be suspended.

The operations of Cyprus courts in all instances were suspended from 16 March 2020 until 4 May 2020, except for extremely urgent matters or upon prior leave of the court.

Since then, the Bar Associations with the judiciary have issued guidelines regulating day-to-day court attendance by implementing social distancing practices and ensuring compliance with the recommendations of the Ministry of Health for combating the pandemic. Among the measures adopted was the conduct of certain proceedings via electronic communication.

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