Litigation and Enforcement in Cyprus: Overview

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A Q&A guide to dispute resolution law in Cyprus.

The country-specific Q&A gives a structured overview of the key practical issues concerning dispute resolution in this jurisdiction, including court procedures; fees and funding; interim remedies (including attachment orders); disclosure; expert evidence; appeals; class actions; enforcement; cross-border issues; and the use of ADR.

Main Dispute Resolution Methods

1. What are the main dispute resolution methods used to resolve commercial disputes?

Litigation

The most common method of resolving large commercial disputes is litigation, usually in the highest level of the district (first instance) courts. The justice system is adversarial.

Most Cypriot law is modelled on English common law, the basic principles of which are directly applied by the Cyprus courts (section 29, Courts of Justice Law 14/1960). Extensive legislation codifies some basic common law and equity principles in particular areas of law (such as the *Contract Law Cap. 149*) and regulates specific issues. EU law is directly applicable and is superior to any other law, including the Constitution. Where there is no applicable Cypriot legislation, English common law and equity apply, and English caselaw has persuasive force and in some cases may be considered binding law. However, where the common law or a legislative provision has been interpreted by the Appeal Court of Cyprus or the Supreme Court of Cyprus in a particular way, the subordinate courts are bound by that interpretation.

The courts apply the procedural rules adopted for each type of court. The old Civil Procedure Rules (old CPR) apply to all district court civil procedures and in civil procedures before other courts in some instances. The new *Civil Procedure Rules* (new CPR) apply to first instance cases filed after the 1 September 2023 and to cases filed before the Appeal Court from 3 July 2023. This Q&A states the position under the New Civil Procedure Rules, unless stated otherwise. Additional procedural rules may apply depending on the type of procedure, such as the Bankruptcy Rules or Companies Rules.

Evidential matters are handled according to the Evidence Law (see *Question 18*).

Arbitration

Arbitration is also used, mainly for construction or building contract disputes, although it is increasingly used in all forms of contractual disputes. A dispute submitted to arbitration may be resolved more quickly and cost-effectively than one submitted to litigation.

Court Litigation

Limitation Periods

2. What limitation periods apply to bringing a claim and what triggers a limitation period?

The Limitation of Actions Law (Law 66(I)/2012) (Limitation Law) regulates limitation.

The limitation period runs from the completion of the cause of action (that is, the set of facts establishing the right of action) (section 2, Limitation Law). Generally, where no specific provision of the Limitation Law or another law regulates the length of the limitation period, no action can be brought if more than ten years have elapsed since the completion of the cause of action (section 4, Limitation Law).

The limitation period varies depending on the nature of the cause of action. For example:

- Common contract claims: six years from the day of completion of the cause of action.
- Claims for damages in relation to negligence, nuisance, or breach of statutory duty: three years from the day of completion of the cause of action, unless the person who suffered the physical damage became aware of the damage later, in which case the limitation period starts from the day the person became aware.
- Claims for fraud, deceit, or mistake:
    - If the claim is in relation to a contractual relationship, the applicable limitation is the period applicable in contract claims (six or three years, depending on the type of contract);
    - If the claim is brought on the basis of *Civil Wrongs Law, Cap. 148*, the applicable limitation period is six years. The limitation period starts to run when the claimant discovered the fraud, deceit, or mistake, or from the time the claimant could, with reasonable diligence, have discovered it (section 14, Limitations Law).

Other laws may provide for specific limitation periods.

Court Structure

3. In which court are commercial disputes usually brought? Are certain types of disputes allocated to particular divisions of this court?

Civil cases are heard by the district courts. There are five district courts, one for each administrative district (that is, Nicosia, Limassol, Larnaca, Paphos, and Famagusta). District courts are made up of:

- President judges with jurisdiction to try claims above EUR500,000.
- Senior district judges with jurisdiction to try claims between EUR100,000 and EUR500,000.
- District judges with jurisdiction to try claims below EUR100,000.

Other lower courts consist of courts of special jurisdiction, such as the:

- Family courts.
- Rent control tribunals.
- Industrial disputes tribunals.
- Military courts.
- Administrative courts.

These courts try cases at first instance with a one#judge panel.

The Law on the Establishment and Operation of Commercial Court and Admiralty Court, Law No. 69(I)/2022, established a Commercial Court and an Admiralty Court. The Commercial Court has jurisdiction to hear and decide (on first instance) commercial disputes (as defined in section 2 of Law 69(I)/20222), where the amount or value in dispute is not less than EUR2 million, subject to certain exceptions. Proceedings before the Commercial Court may also be conducted in the English language. The Commercial and Admiralty Courts are not yet in operation but they are expected to operate shortly.

Appeals against first instance judgments can be filed before the Appeal Court and appeals against second instance judgments may be filed (in certain circumstances) before the Supreme Court.

In addition, the Supreme Court has exclusive jurisdiction to issue prerogative orders (habeas corpus, mandamus, certiorari, quo warranto, and prohibition). Appeals are usually heard by a panel of three judges except where, because of the importance of the case, the hearing can take place before a larger panel.

The answers to the following questions relate to procedures that apply in the district courts.

Rights of Audience

4. Which types of lawyers have rights of audience to conduct cases in courts where commercial disputes are usually brought? What requirements must they meet? Can foreign lawyers conduct cases in these courts?

Rights of Audience/Requirements

A person can be registered to practise as an advocate in Cyprus and conduct court proceedings if they have been granted the relevant certificate by the Cyprus Legal Board. This certificate is only granted if the person successfully meets the following criteria:

- Has attained the age of 21.
- Is of a good character.
- Is a Cypriot citizen or national, a citizen of another EU member state, the spouse or child of a Cypriot citizen, or the spouse or child of an EU citizen.
- Has their usual residence in Cyprus.
- Has a law degree from a university of a member state recognised by the competent authority of that member state, or from any other university, either in Cyprus or in a third country, recognised by the Legal Board.
- Has completed a pupillage of at least 12 months at the law office of an advocate who has exercised the profession for a minimum of five years.
- Has successfully passed the exam of the Cyprus Bar Association and is admitted to the Bar of Cyprus.

(Advocates Law (Cap. 2).)

The Cyprus Legal Board is responsible for the one-off registration of practicing advocates in the relevant registry. However, in order to practice law, a person must also be licensed by the Cyprus Bar Association and this licence is renewed annually.

Only lawyers that have legal practice experience of two years or more can handle hearings before the Appeal Court, the Supreme Court, and the Assize Courts (section 11A, Advocates Law).

Natural persons can represent themselves in court proceedings. However, an officer of a legal entity cannot represent the entity before the court.

Foreign Lawyers

Foreign lawyers can be registered to practise as an advocate in Cyprus only if they are EU citizens or nationals. A foreign EU advocate who does not reside or is not registered in Cyprus can provide legal services in Cyprus in relation to a particular matter, provided all of the following conditions are met:

- The foreign advocate uses in Cyprus their professional title, in the official language of their member state of origin. The advocate must also indicate the professional association with which they are registered as a member, or the court before which they practise law in accordance with the legislation of the member state.
- The foreign advocate offers any services, including the representation of a client before the courts in Cyprus, in accordance with the terms, conditions, and obligations set out in the relevant legislation applicable to persons practising law in Cyprus.
- The foreign advocate enters into an agreement with an advocate who provides legal services in Cyprus and is authorised to appear before the court that will try the case. Either the Cyprus advocate or the foreign advocate must provide to the Cyprus Legal Board the following documents:
    - documents referring to the advocates' professional capacity;
    - other information relating to the services to be provided in Cyprus, including an estimation of the duration of the services, as well as the foreign advocate's address, information on the legal board/association of their member state of origin, and the name and address of the Cypriot advocate with whom they will be associated; and
    - a declaration that they have not suffered any disciplinary penalties.

A foreign EU advocate who wishes to permanently practise law in Cyprus must be registered in the relevant part of the Advocates Registry. Registration is permitted by the Cyprus Legal Board on receiving the following:

- A certificate of nationality.
- A certificate of registration with the advocate's registry in the member state of origin and a declaration that the person continues to carry out their activities and that their practising licence has not been terminated or suspended.

Additionally, the Cyprus Legal Board has discretion to grant a special licence to a foreign advocate of good reputation to appear before any court in Cyprus. An advocate who is granted special permission can only appear before the Cyprus courts together with a Cyprus advocate practising the profession in Cyprus.

Fees and Funding

5. What legal fee structures can be used? Are fees fixed by law?

The fee structure most commonly used is hourly rates. Rates can be standard or agreed between the lawyers and the client.

Fees and payment are usually determined before the initiation of legal proceedings through a written agreement between the lawyer and the client. Fixed fees can be agreed for specific parts of the litigation proceedings. Charging rates are controlled and supervised by the Bar Association and the Cyprus Legal Board, which can conduct investigations following a complaint to examine whether overcharging is taking place.

In the absence of a written agreement, the legal fees are calculated in accordance with the Court Procedural Regulations on the basis of court scales, which set the minimum and maximum fee, depending on the value and scale of the claim.

Contingent, success, or damages sharing agreements are prohibited.

6. How is litigation usually funded? Can third parties fund it? Is insurance available for litigation costs?

Funding

Commercial litigation is funded by the parties and the losing party usually bears the costs of the winning party (see *Question 21*).

There are no known instances of third party funding. The main objections to third party funding relate to public policy grounds and the application of the equitable principles of champerty and maintenance. However, although the matter is not regulated and has not been examined at the level of the Supreme Court, there is some support for the view that third party funding is possible if the funder is to be repaid or paid from the proceeds to be recovered after a trial.

Insurance

Litigation costs insurance is available in relation to civil and criminal court proceedings, and out-of-court settlement (section 238, Law on Insurance and Reinsurance and other Related Matters (Law 38(I)/2016)). The law does not specify whether insurance is available for ADR proceedings. However, the provisions of Law 38(I)/2016 have not yet been applied and interpreted by the courts.

Most law firms are insured for professional negligence.

Court Proceedings

Confidentiality

7. Are court proceedings confidential or public? If public, are the proceedings or any information kept confidential in certain circumstances?

The hearing process before the district courts, including witness testimony and judgments, decisions, and orders issued, are usually public. However, court records and documents kept in the court's case file cannot be accessed by the public unless specific permission is granted by the court, usually when the person or entity applying for access is interested in intervening or becoming a party to a pending action.

Criminal cases may in certain instances (for example, when minors are involved) require the hearing to be conducted in a private/confidential manner and setting.

Pre-Action Conduct

8. Does the court impose any rules on the parties in relation to pre-action conduct? If so, are there penalties for failing to comply?

There are two types of approved pre-trial protocol and one type of pre-trial conduct in cases not covered by a protocol:

- Type I: this protocol applies to claims for a specific amount of money. The proposed defendant must respond within 14 calendar days of receipt of the claimant’s pre-action letter, stating whether they admit the claim.
- Type II: this protocol applies to traffic accidents and personal injury claims. The proposed defendant or its insurers must investigate the claim and respond within 28 days of the date of receipt of the demand letter (or a longer period agreed between the parties).
- Type III: this applies when neither Type I nor Type II applies. The proposed defendant must acknowledge receipt of the claimant's letter in writing, within 14 calendar days of receipt, stating when they will provide a full response and, if this time extends beyond the time specified in the claimant's letter, the reasons for this.

(Part 3, Unit II, Annex I, new CPR.)

Pre-trial protocols are expected to be followed, unless the claim is urgent, will be statute barred, or where there are reasonable and sufficient reasons for non-compliance. If a party fails to comply with these provisions, the court can take the failure into account when exercising its powers under Part 28 (Case management: Preliminary stage) or Part 39 (Costs), and when deciding whether sanctions should be imposed.

Main Stages

9. What are the main stages of typical court proceedings?

Starting Proceedings

There are two methods of commencing proceedings in a district court depending on the nature of the claim and the remedies requested:

- By lodging a claim form (Form 4) under Part 7. A statement of claim must be either contained in the claim form and served with it, or filed within 28 days of service of the claim form and then served by the claimant to the defendant as soon as practicable.
- By lodging a claim form under the alternative procedure set out in Part 8 (where there is no material dispute as to fact or is required by regulation). The claimant must include with the claim form any written statement on which the claimant intends to rely and the claim form must be confirmed by a declaration of truth.

(New CPR.)

All actions filed by Cypriot claimants must be accompanied by a retainer proving the appointment of the advocate. This requirement does not apply to foreign claimants. All cases (including all the legal documents in the proceedings) must be filed through the electronic database, i-justice. The fees and stamps are also paid for electronically.

Notice to the Defendant and Defence

Notice to the defendant. Copies of the claim form must be stamped by the court registrar as true copies and be served on the defendant. Service on a corporate entity must be effected either:

- At its registered office on a person who is authorised to accept judicial documents.
- On one of the company's directors or its secretary.

Service is usually effected by a private bailiff, unless leave for substituted service is obtained. The court can allow alternative methods of service. Depending on whether service is to be effected outside the jurisdiction, the provisions of bilateral or international treaties to which Cyprus is a party may apply. A claim form becomes void 12 months from the day of its issue, unless renewed by a court order.

Defence. On service of the claim under Part 8 of the new CPR, the defendant must file a notice of appearance in accordance with Form 8, accompanied by a retainer in accordance with Form 11, within 14 days. The notice must state:

- Whether the claim is disputed.
- Whether the claim is not disputed or only part of it is disputed, or the remedy in question is disputed.
- Whether the court's jurisdiction is disputed.

When the defendant fails to file a notice of appearance and the time limit for doing so has expired, the court can proceed in the defendant's absence. Where the claimant uses the Part 8 procedure, the claimant cannot obtain a default judgment under Part 13. If the defendant disputes the claim or claims a different remedy, the defendant must file and serve on the other parties a statement of objection in Form 9, within 28 days from the registration of the notice of appearance.

On service of the claim under Part 7, the defendant can within 14 days:

- File or serve an admission under Part 15 of all or part of the claim.

- File an appearance under Part 10 in accordance with Form 10 and then file a defence under Part 17 within 28 days.

If the defendant fails to do this, the plaintiff can obtain judgment in default if Part 13 permits this. The defendant and the plaintiff can agree that the period for filing a defence be extended for up to 42 days. In this case the defendant must immediately notify the court in writing.

Subsequent Stages

The court sets a date for a claim management conference as soon as practicable after the defendant has filed a notice of appearance or has failed to file a notice of appearance or an objection (Part 8, new CPR).

Within 28 days from the completion of the pleadings, each party must file and serve on every other party a questionnaire in Form 39. This questionnaire is examined and discussed during Case Management: Preliminary Stage and the court gives directions for the claim to proceed either as a small claim (for claims below EUR10,000) or as a regular claim (for claims above EUR10,000). Large commercial disputes are considered and treated as regular claims.

After classifying a claim as a regular claim, the court sets a date for a new case management session. At this case management session, the court gives actual directions and sets time limits for the subsequent conduct of the court proceedings until trial, sets the date by which the parties must file any pre-trial checklist, sets a date for any pre-trial examination, and sets the trial date. The parties must make efforts to agree on appropriate instructions for the management of the court proceedings and submit agreed instructions or their respective proposals to the court at least seven days before the case management session, based on Forms 41 or 42 (pre-trial checklist). If the court approves the agreed directions or decides to issue its own directions, the parties will be notified and the case management session will be cancelled. To secure court approval, the agreed directions must set a timetable with reference to calendar dates for taking steps to prepare the case, include a suggested trial date, include provision for the disclosure of documents, and include provision for factual and expert testimony.

Interim Remedies

> 10. What steps can a party take for a case to be dismissed before a full trial? On what grounds can such applications be brought? What is the applicable procedure?

Summary Judgment

In a Part 7 claim, the court can issue a summary judgment against the plaintiff or defendant on the whole claim or on a specific issue, if it deems that the claimant has no real prospect of success or the defendant has no real prospect of successfully defending the claim, and there is no other compelling reason why the case must be decided at trial. The claimant, unless the court grants leave, cannot apply for summary judgment until the defendant against whom the application is filed files an appearance. An application for summary judgment is submitted in accordance with Part 23 and, unless the application itself contains all the evidence on which it is based, must specify the written testimony on which the applicant relies. The application for summary judgment or the testimony must:

- Comprehensively specify any point of law or provision in a document relied on by the applicant.
- State that it is submitted because the applicant believes that, on the evidence, the respondent has no real prospect of success on the claim or of successfully defending the claim, and that the applicant knows of no other reason for which the claim must be adjudicated.

The above procedure is not available in a Part 8 claim.

Strike Out

The court can strike out a claim if it finds that either:

- The claim does not disclose a reasonable cause of action.
- The claim constitutes an abuse of process or is otherwise likely to obstruct the fair conduct of the proceeding.
- There has been a failure to comply with a regulation or court order.

Setting Aside Claim Form

An order containing a declaration that the court lacks jurisdiction or cannot exercise jurisdiction can provide for the setting aside of the claim form. A defendant who wishes to apply for such an order must first file an appearance in accordance with Part 10 and mark the appropriate option indicating its objection. It must then file the application supported by a written statement within 14 days from filing the appearance.

11. Can a defendant apply for an order for the claimant to provide security for its costs? If so, on what grounds?

A plaintiff (or a defendant who has a counterclaim) may be ordered by the court, at any stage in the proceedings, to provide security for costs. Typically, the amount of security is the amount of costs expected to be incurred in defending the action. Such an order is issued if the party both:

- Does not habitually reside in an EU member state.
- Has insufficient assets in Cyprus to satisfy any costs order that may be made against them.

(Part 26.1.)

An order for security for costs can also be made against a company registered in Cyprus if it is shown to be potentially insolvent or unable to pay its debts (section 182, Companies Law Cap.113).The courts can order a stay of the proceedings until the security for costs is provided, and dismiss the claim if the security is not provided within the relevant timeframe.

Bilateral or international treaties may exclude the obligation to provide security for costs.

12. What are the rules concerning interim injunctions granted before a full trial?

Availability and Grounds

Interim relief can be issued at any time, including before the filing of a claim and after the issuance of a judgment (unless the order sought is a Norwich Pharmacal Order) (new CPR).

For a court to grant relief, the following requirements must be met:

- There is a serious question to be tried.
- The applicant's claim has some prospect of success.
- It will otherwise be difficult or impossible to ensure complete justice at a later stage.

(Section 32, Courts of Justice Law 14/60.)

The court will further examine whether it is fair and just for such an order to be issued, considering all relevant circumstances. The court can issue an interim order before a pleading has been filed on the basis of the evidential material in support of the application. A without notice application must fully and frankly disclose all material facts to the court, including the respondent's possible defences.

For an interim order to be issued, the court must be satisfied that the applicant has lodged security by which it guarantees to indemnify the respondent against all losses suffered as a result of issuing the interim order, if the court decides that the interim order was issued on insufficient grounds.

Standard of Proof

For an interim injunction to be granted, the applicant must satisfy the court that the requirements in section 32 of the Courts of Justice Law (Law 14/1960) are met. The court must use its discretion in granting the order, considering:

- The balance of convenience.
- The maintenance of the status quo before the dispute.
- Whether it is just and equitable to issue the order.
- Whether the applicant will suffer potentially greater damage if the order is not issued than the respondent if the order is issued.

When examining an application for interim injunctions, the court must not consider the merits of the action, but only look at the evidence presented to see whether the applicant’s claim has a clear chance of success.

Prior Notice/Same-Day

The courts can issue interim orders without prior notice and on the same day if the matter is urgent or other special circumstances exist. When deciding whether to issue an interim order on an ex parte basis, the court takes into account whether:

- It is just and equitable to issue the interim order.
- The case is of an urgent nature.
- The applicant has complied with its duty to disclose all the relevant material and information to the court.

If the applicant applies without notice, the testimony in support of the application must state the reasons why no notice is given.

If the need for an order is not urgent, the applicant can file an application by summons, which will be served on the respondents.

Prohibitory and Mandatory Injunctions

The courts can issue prohibitory and mandatory injunctions. In examining an application for a mandatory injunction, the court will examine whether:

- The requirements of section 32 of the Courts of Justice Law are satisfied.
- It is just and equitable to issue the requested order.

The strength of the applicant's case is important. Mandatory injunctions must be issued sparingly, and the court should avoid providing a final remedy at the interlocutory stage. The court can appoint a receiver if no other type of order is appropriate.

The testimony in support of an application for a prohibitory or mandatory injunction must state the facts on which the applicant relies, including all material facts in support of the application (new CPR). Where an application is filed without notice, the testimony must also state the reasons why notice was not given.

Right to Vary or Discharge Order and Appeals

An appeal against an interim injunction or order can be filed by any party before the Supreme Court.

When an order is issued without notice to the other party, this is fixed returnable and served on the respondent. During the next appearance, the respondent can appear before the court and oppose the issue of the order. The court fixes the application for an inter partes hearing. During the hearing, the parties present their positions through written addresses and then the court decides whether it is justified for the interim order to be rendered absolute or quashed.

The district court that issues an interim injunction can at any time issue an order amending, varying, or annulling that injunction, on an application by the respondent, showing reasonable cause to do so (section 32(2), Courts of Justice Law 14/1960).

13. What are the rules relating to interim attachment orders to preserve assets pending judgment or a final order (or equivalent)?

Availability and Grounds

For the court to issue interim attachment orders, the conditions in section 32 of the Courts of Justice Law must be met. The scope of section 32 is broad. Therefore, in exercising their civil jurisdiction, the courts have extensive powers to issue interim orders in all cases where it is considered just and fair, and deemed necessary in the circumstances, to achieve justice.

Mareva injunctions are often issued by the courts when the applicant can show that unless the freezing order is issued, there is a real risk of alienation or dissipation of assets. The court will issue the requested order on the balance of convenience towards preserving a particular situation pending the final adjudication and determination of the issues of the relevant proceedings.

Freezing orders can be granted in relation to tangible and intangible assets, inside and outside Cyprus (although the courts are generally reluctant to issue an order concerning foreign nationals because of the practical difficulties in enforcing it (*Avila Management Services Ltd a.o. v Frantisek Stepanek a.o Civil Appeal No. 54/2012, dated 27 June 2012*)).

The courts can also issue Chabra injunctions (*TSB Private Bank International v Chabra [1992] 1 WLR 231*). A Chabra injunction is essentially a freezing order directed to a party against which the claimant does not have a substantive cause of action. It is made to enforce a judgment (or an anticipated judgment) against that third party, where there are grounds to believe that the third party is in possession or control of assets to which the principal defendant or respondent is beneficially entitled.

Standard of Proof

The standard of proof is higher than a mere possibility but much lower than the balance of probabilities. The claimant must show a clear prospect of success in relation to the merits of the case (see *Standard of Proof*).

Prior Notice/Same-Day

Interim orders can be obtained without prior notice to the defendant (see *Prior Notice/Same-Day*, *Prior Notice/Same Day*).

Main Proceedings

The Cyprus courts can issue freezing orders before proceedings commence and even if the main proceedings are not taking place in Cyprus, in support of the following pending or in some instances anticipated proceedings:

- Judicial proceedings before the Cyprus courts.
- Arbitration proceedings in Cyprus.
- Judicial proceedings pending before the courts of EU member states (excluding Denmark) (Recast Brussels Regulation (*(EU) 1215/2012*)).
- International commercial arbitration proceedings in any state (EU and non-EU) (section 9, International Commercial Arbitration Law 1987 (Law 101/1987)).

Preferential Right or Lien

The granting of an interim order/injunction does not create any lien or preferential rights over the seized assets.

Damages as a Result

A respondent that has suffered damage as a result of the unjustified and inappropriate issuing of an interim order can bring proceedings claiming compensation. However, these actions are rare in practice as a causal link between the alleged damage and the interim order has to be proved. The courts usually request the applicant to lodge an undertaking/security, by which it guarantees to indemnify the respondent against all losses suffered as a result of the interim order if the court decides that the interim order was issued on insufficient grounds. In the most serious cases, a bank guarantee is provided by the applicant/claimant. The applicant's liability is not restricted to the amount of the security provided but extends to the damage the respondent/defendant can prove.

Security

The applicant must lodge security with the court in the form of (usually) an undertaking or a bank guarantee, depending on the court's instructions.

14. Are any other interim remedies commonly available and obtained?

Norwich Pharmacal Order

A Norwich Pharmacal Order is essentially an order under which a third party respondent who is involved in a wrongdoing (whether innocently or not) is required to disclose certain documents or information to the applicant (for example, to identify the wrongdoer or trace its assets). The courts can issue a Norwich Pharmacal Order where the following conditions are met:

- The identity of the wrongdoer is known, but the disclosure of the information is necessary for the preparation and filing of the claim, or the applicant is missing information that forms part of the claim.
- The wrongdoing relates to breach of contract and other causes of action.
- The third party against whom the order is sought may be involved in the wrongdoing.

Gagging Orders

A gagging order prevents the respondents from disclosing the filing of the proceedings or the application to the public, any potential defendants, or any other unauthorised third party.

Ancillary Disclosure Orders

Applicants commonly request, together with a freezing order, a disclosure order as an ancillary remedy to ensure the effectiveness and compliance of the respondent with the freezing order.

Anton Piller Orders

These orders allow the entering into the respondent's house or personal or business premises to obtain information or documents that are very likely to be destroyed. The court applies a strict criteria in considering whether to grant these orders. In particular, the applicant must convince the court that:

- There is a very strong prima facie case on the merits.
- The respondent's activities actually or may potentially cause very serious and irreparable damage to the applicant's interests.
- There is clear evidence of a very real possibility that documents, things or any other evidence in the possession of the respondent will be destroyed or demolished.

An application for an Anton Piller order is always made without notice.

The affidavit supporting the application must state the name, law firm, address, and experience of the supervising attorney, and the address of the premises and whether it is a private or business address. It must also disclose the reason the order is sought, including the possibility that the relevant material will disappear if the decree is not issued. (New CPR.)

Receivership Orders

The courts can issue orders for the appointment of an interim receiver or an administrator of assets, where an injunction is insufficient on its own. These cases are likely to arise where there is a measurable risk that a respondent will act in breach of the freezing order or otherwise seek to ensure that its assets will not be available to satisfy any judgment that may be given against it.

The court usually requests the applicant to secure the fees of the potential receiver by bank guarantee. The court order will stipulate the powers, duties, and rights of the interim receiver.

Quia Timet Injunctions

Cyprus courts will grant quia timet (precautionary) injunctions in cases where no actionable wrong has been committed, to prevent the occurrence or repetition of an actionable wrong. The applicant must show that, unless the court grants the injunction, there is a real risk that an actionable wrong will be committed. The applicant must show that the respondent has actually threatened to do the particular wrongful act.

Anti-Suit Injunctions

The courts can issue anti-suit injunctions to prevent the respondent from bringing or continuing proceedings in a court or tribunal abroad.

Disclosure of Assets

The court can order a defendant to disclose any assets that may become the object of execution should the claimant’s claim succeed (Order 32, new CPR).

Final Remedies

15. What remedies are available at the full trial stage? Are damages only compensatory or can they also be punitive?

The following remedies are commonly awarded in civil and commercial claims:

- Compensatory damages (general and special damages), in relation to claims for loss suffered by the claimant, which are determined and calculated in accordance to the extent and type of loss suffered by the injured party.
- Restitutionary damages in equity, to prevent unjust enrichment.
- Declaratory court decisions and judgments recognising an ownership status, declaring as unlawful, void, or without legal effect the acts and operations of a defendant.
- Orders for specific performance, most commonly in relation to contract disputes.
- Other type of appropriate prohibitive, mandatory, or any other type of final order by which a family dispute, a dispute arising from the commission of a tort, or any other type of civil dispute is regulated in a final manner.
- Punitive or exemplary damages, to punish the behaviour of the defendant in certain circumstances.

Evidence

Document Disclosure

16. What documents must the parties disclose to the other parties and/or the court? Are there any rules governing this procedure?

Old CPR

The parties must disclose all documents relevant to the matters of the litigation and which they plan to use during the hearing, if relevant directions for disclosure are given by the court. The court sets time limits for disclosure. Documents that are not disclosed cannot be presented in evidence at the hearing by the non-disclosing party, unless the court allows this.

Any party to a proceeding can request the court to order another party to disclose under oath the documents that are or were in that party's possession and relate to the matters of the proceedings, and to allow for their inspection (Order 28, CPR). The court can also order this disclosure on its own initiative. Where a party ordered to proceed to disclosure fails to do so, that party will not be allowed to submit the documents into evidence, but no other penalty will be imposed.

Documents referred to in pleadings or affidavits must be produced for inspection where the other party requests it in writing. A party can also file an application requesting its opponent to disclose a specific document that they know their opponent possesses. If a document that is requested to be produced is claimed to be privileged, the court after inspecting it will decide whether it should be produced.

New CPR

Each party must disclose the documents that are or have been in its possession, custody, control, or power, and on which it intends to rely or that are necessary for the other parties and the court to understand the case, at least 14 days before the case management session. The disclosure must be accompanied by witness statement using Form 43 (General Disclosure of Documents).

Any party can file and serve a request for disclosure of specific documents or classes of documents that are or have been in the possession, custody, control, or power of a party and that may reasonably support or adversely affect the case of any party (Form 46 (Request for Special Disclosure)). Disclosure is then made through the filing of a witness statement using Form 44. The requested party can object to disclosure using Form 47 and the requesting party can reply using Form 48. In this case, the court examines the Request for Special Disclosure and the objection and any reply, and has discretion to order the Special Disclosure.

If a party fails to disclose or produce within the time limit any document requested in a Request for Special Disclosure, the court can draw adverse inferences. In addition, that party cannot file as evidence the document that it failed to disclose or produce, unless the court is satisfied that there were special circumstances justifying such failure.

Sanctions are available for non-compliance with the disclosure rules (Part 30, Regulation 6, new CPR).

Attorney-Client Privilege and Confidentiality

17. Are any documents or communications privileged? If privilege is not recognised, are there any other rules allowing a party not to disclose a document?

As a rule, privileged documents cannot be used as evidence and their admissibility can be challenged. Privileged documents include:

- Confidential communications between lawyers and clients (*see below*).
- Documents that tend to self-incriminate.
- Documents that are sent for negotiation purposes and are marked as "without prejudice."

Legal professional privilege can be separated into two categories:

- **Legal advice privilege.** This covers communications between lawyers and clients where the lawyers' professional opinion or assistance is sought. These communications include phone calls, face-to-face discussions, letters, emails, and so on.
- **Litigation privilege.**This only arises when litigation is in prospect or pending. Any communications between the client and lawyer, or between one of them and a third party, will be privileged if they are created for the sole or dominant purpose of either giving or obtaining legal advice with regard to the litigation, or collecting relevant evidence. The court considers the purpose of the document objectively, taking into account all the circumstances.

Legal professional privilege applies to practising but not in-house lawyers.

The right to professional privilege can only be waived by the client or under certain circumstances in accordance with the Prevention and Suppression of Money Laundering Activities Law.

Witnesses and Experts

18. What are the rules in relation to witnesses and third party experts?

Witnesses

Probatory value of different types of evidence. Any fact that needs to be proved by the testimony of witnesses is proved either:

- At trial, by their written or oral evidence given in a public hearing.
- At any other hearing, with their written testimony.

(New CPR.)

Generally, the written statement is deemed to be the witness' chief examination or part of it (section 25, Evidence Law). Where the opposing party has strong reasons to challenge the validity and credibility of a witness and evidence, the court can order the witness to submit the evidence orally. In deciding whether to issue such an order, the court takes into account the nature and context of the case and any other relevant factors (such as the parties' right to a fair trial).

If there is a good reason, a court can allow a witness to strengthen their witness statement and give evidence in relation to new matters that have arisen since the service of the witness statement.

Hearsay evidence must not be excluded from any court procedure merely because it is hearsay (Evidence (Amendments) Law 32(I)/2004).

Interim applications are usually heard on the basis of the affidavits filed in support. These affidavits contain written evidence (exhibits) and are sworn by a witness of fact. In certain cases, the parties can file an application requesting the cross-examination of the witness and supplementary affidavits may also be allowed.

Right to cross-examine. If a witness is called to give evidence at trial, the witness may be cross-examined on their witness statement, whether or not reference has been made to the statement or any part of it during the examination-in-chief of the witness.

The judges do not cross–examine the witnesses. Lawyers have a right to conduct cross-examination and re-examination within specific time limits provided by the CPR and the court.

If written testimony is given at a hearing other than a trial and the court grants permission to cross-examine the relevant witness, but that witness does not attend, their witness evidence cannot be used unless the court gives leave.

Experts

Appointment procedure. Under the old CPR, each party can choose to appoint a third-party expert witness to testify orally before the court and give a written expert opinion or affidavit. An expert should be independent and adequately competent in their field of expertise.

Under the new CPR, no party can call an expert witness or submit an expert report as evidence without leave of the court. Expert testimony must be given in the form of a written report, unless otherwise ordered by the court. When two or more parties wish to submit expert testimony on a specific issue, the court can direct that the testimony on that issue be given by a joint expert.

Role of experts. Experts must assist the court by providing objective and unbiased opinions on matters that fall within the scope of their expertise, providing all necessary scientific or technical information (new CPR; *Koinotiko Simvoulio Omodous v Annas Konnari (2011) 1 AAD 2298*). This duty takes precedence over any obligation to the person by whom the experts are instructed or paid (new CPR). Experts must consider all material facts, including those that might weaken their opinion. When a question or issue does not fall within their area of expertise and when they are unable to form a clear opinion, for example because they have insufficient information, they should make this clear. If, after the report is prepared, the expert's opinion changes on any material matter, this must be communicated to all parties without delay and, where appropriate, to the court.

The general rule is that an expert witness can give their opinion on facts that are either admitted or proved by themselves or other witnesses in the hearing, or are matters of common knowledge. The facts on which the expert opinion is based must be proved independently, unless they are within their own knowledge (*Ramsdale v Ramsdale (1945) 173 L.T. 393; R v Somers [1963] 1 W.L.R. 1306*). The expert should also clarify which facts they rely on in forming an opinion.

Cross-examination of experts. Under the old CPR, expert witnesses can be cross-examined.

Under the new CPR, unless the court gives leave or the other party agrees, a party can ask written questions about an expert report only once, within 28 days of service of the expert report, solely for the purpose of clarifying the report.

The court can direct that some or all of the experts from related scientific disciplines testify simultaneously and direct that the parties agree on an agenda for the deposition of simultaneous testimony (Part 34, Regulation 13, new CPR). The court can then ask the opinions of the experts in turn. The court can also invite an expert to comment on the positions of another expert or ask questions. Following this, the parties' legal representatives can ask the experts questions.

Fees. Under the old CPR, expert fees are agreed between the expert and the appointing party, who is responsible for paying the fees.

Under the new CPR, the court can limit the amount of a party's expert's fees and costs, which may be recovered from any other party. Where the court directs the use of a joint expert, related parties are jointly and severally liable for the payment of the expert's fees and costs, and the court can, before instructing the expert, direct that some or all of the related parties pay the relevant fees and costs to the court.

Appeals

19. What are the rules concerning appeals of first instance judgments in commercial disputes?

Appellate Courts

Any judgment or order can be appealed wholly or partly.

The Appeal Court has jurisdiction to adjudicate all appeals filed against first instance judgments, including judgments issued by the courts of special jurisdiction (see *Question 3*). The appellant does not need to obtain permission to bring an appeal before the Appeal Court, apart from an appeal filed against the court's judgment in relation to a costs award. Appeals are adjudicated by a panel of at least three Judges, while appeals against interim judgments (excluding judgments for interlocutory measures) can be adjudicated by one Judge. The Appeal Court can:

- Uphold, set aside, or vary the judgment or order issued by the first instance court.
- Refer a matter to the lower court.
- Order a new hearing of the case by the lower court.
- Issue costs and interest orders.
- Refer a matter relating to public policy, general public importance, or in contradicting judgments of the Appeal Court, to the Supreme Court.

In exceptional cases, the Appeal Court can hear further evidence on facts, with special leave of the Appeal Court, if:

- The evidence could not have been obtained during the first instance proceedings despite the exercise of reasonable diligence.
- The evidence is such that its admission would likely have had a significant impact on the outcome of the case.
- The evidence is reliable, although not necessarily undisputed.

(*Pantazopoulos v. Pantazopoulos (2016) 1 A.A.D 729*.)

The Supreme Court has jurisdiction to adjudicate appeals filed against judgments of the Appeal Court in relation to legal matters, matters relating to the deviation from case law or the interpretation of legal provisions, and matters of public policy or of general

public importance. The appellant must obtain permission to bring an appeal before the Supreme Court by filing an application for leave (section 9(3)(c), Law 33/1964). Appeals are adjudicated by a panel of three judges. The Supreme Court's judgments are final in Cyprus.

The Appeal Court and the Supreme Court can uphold, vary, or set aside the subordinate court judgment or can order retrial of the case.

Grounds for Appeal

Generally, court judgments can be appealed on points of law or fact. However, judgments of the Administrative Court can be appealed on points of law only.

Time Limit

Appeal Court. An appeal is filed with a Notice of Appeal (Form EE63 of the new CPR). The Notice of Appeal must be filed to the lower court whose decision is the subject of the appeal within:

- 42 days of the issuance of the decision if it regards a final decision.
- 14 days of the issuance of the decision if it regards an interlocutory order or judgment.

It must be served on the respondent within 28 days from its filing.

Supreme Court. Subject to any law providing otherwise, an application for leave under section 9(3)(c) of Law 33/1964 must be submitted within 42 days of the issuance of the decision or decree of the Court of Appeal (Part 2, Regulation 10, Supreme Court Procedure Rules of 2023).

Class Actions

20. Are there any mechanisms available for collective redress or class actions?

Class actions can be initiated as long as the claims can be conveniently disposed of in the same proceedings.

There are no specific rules on fees and funding in class actions. The parties can agree with their lawyers any fees they deem proper.

Costs

21. Does the unsuccessful party have to pay the successful party's costs and how does the court usually calculate any costs award? What factors does the court consider when awarding costs?

Costs Allocation

As a general rule, the losing party bears the costs of the proceedings. However, the court can order each party to bear its own costs or the prevailing party to bear some or all of the costs of the losing party, if it considers that this is just and appropriate in the circumstances. The conduct of the parties during the proceedings is taken into account.

Costs Amount

The amount of costs in civil proceedings varies significantly, depending on the size and complexity of the case. Cyprus courts have wide discretion to determine the amount of costs to be awarded to the winning party, which include interest, VAT, and disbursements.

The court commonly orders the Registrar of the District Court to calculate costs according to the relevant court costs scales. However, the court can order a higher amount in special circumstances arising due to the nature, complexity, and urgency of the matter. The assessment is made by reference to the court scales. Any private agreement between lawyer and client on legal fees will not be taken into account.

Interest

Any costs decisions or judgments, including those relating to legal expenses, must bear legal interest from the date of filing of the action until the final settlement of the judgment debt (unless otherwise agreed). The rate of interest is determined by the Minister of Finance (Article 33, Courts of Justice Law). The current interest rate is 6% (unless otherwise agreed by the parties).

However, the court has discretion to award interest:

- On the whole judgment award for a period between the date of filing of the action until the date on which the judgment was delivered.
- Only on part of the judgment award, for the whole or only part of the period between the date of filing of the action and the date on which the judgment was delivered.

In cases of fraud, interest is calculated from the date of creation of the claimant's actionable right (Article 33(2), Courts of Justice Law).

Enforcement of a Local Judgment

22. What are the procedures to enforce a judgment given by the courts in your jurisdiction in the local courts?

A judgment issued by the Cyprus courts is automatically enforceable on issue, unless an order for stay of its execution has been issued. There is no need for a judgment to be registered or for any further measures to be taken, apart from serving the judgment on the judgment debtor and the enforcement procedure that follows.

Every court's judgment can be enforced through one or more of the following methods:

- A writ of execution for the sale of movables towards satisfaction of the debt.
- A writ for sale of immovable property or registration of a charging order over the property.
- A writ of sequestration of immovable property (if the judgment debtor is in contempt of a court’s order).
- A garnishee order. Under this measure, a money judgment is enforced through the attachment of debts due or accruing due to the judgment debtor that form part of its property available in execution, as follows:
    - the court issues a garnishee order nisi, under which the garnishee is forbidden from alienating the amount determined in the order;
    - the court can issue the writ of attachment if a third party keeps assets on behalf of the judgment debtor (for example, a bank where an account in the name of the judgment debtor is kept) or is a debtor of the judgment debtor (section 73, Civil Procedure Law). Through this process, the court has power to order a third party not to alienate the amount determined in the order;
    - the garnishee or the judgment debtor can file an opposition to the order. After hearing the respondents, the court can order the garnishee to pay directly to the judgment creditor the debt due or accruing due to the judgment debtor, or part of it so as to satisfy the amount of the judgment.
- An order to the judgment debtor to make payments over the debt in monthly instalments.
- A writ of possession, where property is delivered to the judgment creditor.
- A writ of delivery, where movable property is delivered to the judgment creditor.

(Civil Procedure Law (Cap. 6); new CPR.)

A judgment creditor can also seek an injunction forbidding the alienation of shares and other orders encumbering the interest of the judgment debtor over shares and other stock. In essence, with such an order, the judgment debtor is forbidden from alienating the shares/stock the debtor owns or ultimately owns. The judgment creditor can then apply to the court to obtain an order to have those shares/stock sold, towards the satisfaction of the judgment debt (Encumbering Orders Law No. 31(I)/1992).

Cross-Border Litigation

23. Do local courts respect the choice of governing law in a contract? If so, are there any national laws or rules that may modify or restrict the application of the law chosen by the parties in their contract? What are the rules for determining what law will apply in the absence of any agreement or to non-contractual claims?

Contractual Choice of Law

The Cyprus courts almost invariably respect a choice of governing law in a contract, provided the parties' intention is clear. The parties to a contract are free to choose the law that governs the whole or part of their contract, even where the chosen law has no connection, or no apparent connection, with the dispute. This principle is embodied in *Rome I (593/2008/EC)*, which is applicable in Cyprus. However, where all elements relevant to the dispute at the time of the choice are connected with one country only, the mandatory legal provisions of that country will apply, regardless of a choice of foreign law (Article 3(3), Rome I). Additionally, Cyprus courts can restrict the application of a foreign law if it is incompatible with public policy.

No Choice of Law and Non-Contractual Claims

In the absence of a choice of law clause, the courts apply Cyprus law, unless the elements or facts of the dispute in question indicate that the law of another state is applicable.

If the claim is not contractual in nature, the courts will generally apply Cyprus law if the damage has occurred within Cyprus (*Rome II ((EC) 864/2007)*). An exception to this general principle is where both parties have their habitual residence in a foreign jurisdiction at the time when the damage occurs. In that case the law of the country of residence applies (Article 4(2), Rome II)).

In addition, where it is clear from all the circumstances of the case that the tort is closely connected with a country other than the country where the damage occurred, the applicable law is the law of that other country.

Cyprus courts can restrict the application of a foreign law if it is incompatible with public policy.

Contractual Choice of Forum

24. Do local courts respect the choice of jurisdiction in a contract? Do local courts claim jurisdiction over a dispute in some circumstances, despite the choice of jurisdiction?

Cyprus courts generally respect and apply a jurisdiction clause contained in a contract. However, regardless of the choice, Cyprus courts will still have jurisdiction to try a dispute if at least one of the substantial defendants is domiciled in Cyprus and all the other foreign defendants are included in the action filed in Cyprus as necessary defendants.

In addition, local courts can have exclusive jurisdiction despite the existence of a jurisdiction clause:

- In proceedings that have as their object rights in rem in immovable property or tenancies of immovable property: the courts of the member state in which the property is situated (lex situs).
- In proceedings that have as their object the validity of the constitution, the nullity or dissolution of companies, or other legal persons or associations of natural or legal persons, or the validity of the decisions of their bodies: the courts of the member state in which the company, legal person, or association has its seat or keeps its register.

(Recast Brussels Regulation.)

Service of Foreign Proceedings

25. If a party wishes to serve foreign proceedings on a party in your jurisdiction, what is the procedure to effect service in your jurisdiction? Is your jurisdiction a party to any international agreements affecting this process?

Procedure

For domestic proceedings, service of judicial documents in Cyprus is generally effected through a licensed private process server, who confirms service through affidavit. For natural persons, service can be personal or, if the person cannot be found, the judicial documents can be served at their house or usual place of employment (Part 6.4(3), new CPR). For legal persons, service can be on the person's officials or at its registered office or primary place of business (Part 6.4(7), new CPR).

However, the parties can agree in writing to be served with the claim form in any manner and at any place (Part 6.2, new CPR).

If service cannot be effected as above, a party can request leave from the court for substituted service. The applicant must show that the person on whom substituted service will be effected will likely receive knowledge of the proceedings pending. Substituted service can be effected through fax, e-mail, or publication by any means in electronic form, if the court deems it is just and equitable in the circumstances.

Judicial documents served in Cyprus must be accompanied by Greek translations.

International Agreements

The method of service of foreign proceedings in Cyprus may be affected by the provisions of applicable international bilateral and multilateral agreements for service. For example, Cyprus is a party to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention). See *HCCH: Status Table*.

For service on a party in Cyprus of proceedings taking place in jurisdictions that are parties to the Hague Service Convention, service can be effected in any of the following ways:

- The Ministry of Justice and Public Order forwards requests for service to the Chief Registrar of the Supreme Court of Cyprus, which passes them on to the Registrar of the competent district court (that is, where the addressee is located) to be served, in accordance to the Procedure for domestic proceedings.

- Judicial documents can be served by post, directly to persons in Cyprus.
- Judicial officers, officials, or other competent persons of the state of origin can effect service of judicial documents directly through the judicial officers, officials, or other competent persons of Cyprus.
- Any person can effect service of judicial documents directly through the judicial officers, officials, or other competent persons of Cyprus (that is, through a licensed private process server).

Articles 2, 3, and 10 of the Hague Service Convention apply in Cyprus

In the absence of any applicable bilateral or multilateral agreement, service may be effected based on the principle of reciprocity through the diplomatic channels in both jurisdictions. Those diplomatic channels involve the Cyprus Ministry of Foreign Affairs.

EU Service Regulation (*(EU) 2020/1784*)

If a party wishes to serve foreign proceedings taking place in another EU member state on a party in Cyprus, the EU Service Regulation applies.

Methods of service of judicial documents provided in the EU Service Regulation are available in Cyprus and the applicant can choose any of the following:

- The Cyprus Ministry of Justice and Public Order itself serves judicial documents or have them served, either in accordance with the laws of Cyprus or through a particular method requested by the transmitting agency, unless that method is incompatible with the laws of Cyprus (Article 11, EU Service Regulation).
- A member state can use its consular or diplomatic channels either to forward judicial documents to the designated agency in Cyprus, which is the Cyprus Ministry of Justice and Public Order or to effect service of judicial documents directly on persons residing in Cyprus (Articles 16 and 17, EU Service Regulation).
- Service can be effected directly through postal services (by registered letter) in Cyprus, with acknowledgment of receipt (Article 18, EU Service Regulation).
- Service can be effected directly on a person who has a known address for service in Cyprus by any electronic means of service, provided inter alia that the addressee gave prior express consent to the use of email sent to a specified email address for the purpose of serving documents in the course of those proceedings and the addressee confirms receipt of the document with an acknowledgement of receipt, including the date of receipt (Article 19, EU Service Regulation).
- Any person interested in judicial proceedings can effect service in Cyprus, directly through the judicial officers, officials, or other competent persons of Cyprus, that is, through licensed private process servers (Article 20, EU Service Regulation).

Taking of Evidence for a Foreign Court Proceeding

26. What is the procedure to take evidence from a witness in your jurisdiction for use in proceedings in another jurisdiction? Is your jurisdiction party to an international convention on this issue?

Under applicable bilateral treaties and multinational conventions, the courts can assist in the taking of evidence from witnesses or experts on the request of a foreign court.

Cyprus is a signatory to the HCCH Convention on the Taking of Evidence Abroad in Civil and Commercial Matters 1970. Cyprus is also bound by the Taking of Evidence Regulation (*(EC) 1206/2001*) which provides for a 90-day deadline for the execution of a request for the taking of evidence.

Enforcement of a Foreign Judgment

27. How are foreign judgments enforced in your jurisdiction?

Enforcement

EU judgments. A judgment issued in an EU member state on or after 10 January 2015 must be recognised in the other member states without any special procedure being required (Article 36, *Recast Brussels Regulation ((EU) 1215/2012)*). The enforcing party must produce a copy of the judgment that satisfies the conditions necessary to establish its authenticity and the certificate issued by the court of origin in accordance with the form set out in Annex I (Articles 37 and 53, Recast Brussels Regulation).

The party against whom enforcement is sought can appeal against the declaration of enforceability within one month (or two months if that party resides abroad) from service of the declaration. The procedure provided in the Recast Brussels Regulation must be followed.

The Recast Brussels Regulation does not apply to matters relating to:

- The status or legal capacity of natural persons or rights in property arising out of a matrimonial relationship or a relationship deemed to have comparable effects to marriage.
- Bankruptcy proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions, and analogous proceedings.
- Social security.
- Arbitration.
- Maintenance obligations arising from a family relationship.
- Wills and succession.

Judgments issued before the enactment of the Recast Brussels Regulation are governed by the Brussels Regulation (*(EC) 44/2001*).

Non-EU judgments. The enforcement of a foreign judgment issued by the courts of a state with which Cyprus has entered into a bilateral or multilateral agreement is governed by that agreement and the Foreign Court Judgments (Recognition, Registration and Enforcement based on Convention) Law of 2000 (Law 121(I)/2000) (Foreign Court Judgments Law). If the foreign judgment was issued by a court of a Commonwealth country, Chapter 10 of the Foreign Judgments (Reciprocal Enforcement) Law 1935 applies.

A foreign judgment recognised by courts is subject to enforcement and execution as any other domestic judgment and the measures of execution provided by Cyprus law are available (see *Question 22*).

The Cyprus courts cannot review the substance of a judgment. Common grounds for refusing recognition and enforcement include:

- Jurisdictional matters.
- Issues of public policy.
- Lis alibis pendens (claim pending elsewhere).
- Cases where recognition is inconsistent with previously issued judgments between the same parties.

Objections to Enforcement

The party opposing an application for enforcement of a foreign judgment can oppose the application by pleading:

- That the Cyprus courts lack jurisdiction.
- That the foreign judgment has been satisfied.
- Any ground of resistance provided in a specific bilateral or multilateral convention that is applicable in the specific case (section 5(1)(e), Foreign Court Judgments Law).

In addition, a foreign judgment that has been registered in Cyprus can be set aside if the court is satisfied (among other things) that:

- The foreign court that issued the judgment lacked jurisdiction to do so.
- The defendant did not receive notice of the original proceedings in sufficient time to defend the proceedings and did not appear.
- The judgment was obtained by fraud.
- The enforcement of the judgment would be contrary to Cypriot public policy.
- The rights under the judgment are not vested in the person by whom the application for registration was made.
- The matter in dispute in the proceedings in the original court had been (before the date of the original judgment) the subject of a final and conclusive judgment by a court having jurisdiction in the matter.

(Chapter 10, section 6, Foreign Judgments (Reciprocal Enforcement) Law 1935).

Alternative Dispute Resolution

28. What are the main alternative dispute resolution (ADR) methods used to settle commercial disputes? Is ADR used more in certain industries? What proportion of commercial disputes is settled through ADR?

Arbitration

Arbitration is used particularly in construction and building contract disputes, shareholder disputes, and commercial disputes, while its use is mandatory in banking disputes between debtors and co-operative institutions. However, arbitration clauses are increasingly used in all forms of contracts. A dispute submitted to arbitration can be resolved more quickly and cost-effectively than one submitted to litigation.

The following sources of law apply to arbitration in Cyprus:

- The Arbitration Law 1944 (Cap. 4) (Arbitration Law), which governs domestic arbitration.
- The International Commercial Arbitration Law (101/1987) (ICAL), which applies solely to arbitrations that are both international and commercial in nature (section 3(1), ICAL).
- The New York Convention (ratified in Cyprus by the Ratification Law (84/1979).
- The Foreign Courts Judgments (Recognition, Registration and Enforcement) Law of 2000 (Law 121(I)/2000), a procedural law which applies in recognition/enforcement proceedings of an award issued in a foreign country with which the Republic of Cyprus has concluded or is bound by a treaty on the mutual recognition and enforcement of judgments and arbitral awards.

For further information, see *Arbitration Procedures and Practice in Cyprus: Overview*.

Mediation

Mediation is not compulsory before resorting to litigation, although the new CPR encourages it. It is a non-binding, private, confidential, and low-cost procedure through which the parties attempt with the help of a mediator to reach an agreement to settle their dispute in a binding manner. Law 159(I)/2012 was passed to implement the Mediation Directive (2008/52/EC).

Mediation is one of the least popular methods of ADR, as its outcome depends on the parties' personal and business interests, and common sense, rather than the relevant law. However, it could be argued that parties have little to lose by choosing mediation as, even if a settlement is not reached, the process facilitates the designation of the facts and issues of the dispute, preparing the ground for any potential court proceedings.

Mediation is particularly used in family and employment law cases and other small disputes.

Conciliation

Conciliation is a non-binding procedure that is very similar to mediation. When the parties are unable to agree, the third party conciliator can provide them with a non-binding opinion on possible settlement terms. The conciliator's opinion is presented to the parties and, if not rejected, becomes a dispute resolution agreement.

29. Does ADR form part of court procedures or does it only apply if the parties agree? Can courts compel the use of ADR?

The use of ADR is voluntary, unless an ADR clause (for example, an arbitration clause) has been contractually chosen by the parties as a method of dispute resolution. The courts cannot compel the use of ADR. However, the courts can stay legal proceedings initiated, if there is a valid arbitration agreement in place between the parties.

The courts can urge the parties to attempt to settle the matter through ADR. However, if the parties choose not to do so or any attempts at out-of-court settlement fail, no adverse inferences can be drawn by the court.

30. How is evidence given in ADR? Can documents produced or admissions made during (or for the purposes of) the ADR later be protected from disclosure by privilege? Is ADR confidential?

Different rules apply depending on the specific method of ADR and the procedural rules chosen by the parties. For example, the IBA Rules on the Taking of Evidence in International Arbitration can be adopted by agreement between the parties. As a general rule, arbitration and mediation are confidential, but disclosure may be permissible in certain circumstances.

31. How are costs dealt with in ADR?

The law does not set fixed costs for the conduct of ADR proceedings. ADR practitioners' fees are agreed by a submission agreement before the procedure starts.

32. What are the main bodies that offer ADR services in your jurisdiction?

The most prominent ADR centres that administer arbitration proceedings in Cyprus are:

- The *Cyprus Eurasia Dispute Resolution and Arbitration Centre* (CEDRAC).
- The *Cyprus Arbitration and Mediation Centre* (CAMC).
- The *Cyprus Consumer Center for Alternative Dispute Resolution*.
- The *Cyprus Chamber of Commerce and Industry* (CCCI), which appoints tribunals.
- *ETEK ADR Center*.

There are no official bodies offering mediation and conciliation services. However, there are certain requirements to be a mediator and be registered in the official Register of Mediators.

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