

A new era for the Cyprus justice system

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It is a feature of the litigation work in Cyprus that the Cyprus legal system is extensively utilised in cross border litigation/International dispute resolution cases with an emphasis on ancillary matters in aid of ongoing proceedings elsewhere such as obtaining orders in aid of such proceedings and/or recognition and execution of judgments and awards, especially in transaction/contract related disputes.

The main disputes between litigants in international disputes, where there is also a Cyprus element, are usually adjudicated in other jurisdictions, even when Cyprus is a convenient forum. Cyprus, even when not used as the usual Forum of choice in contracts that include foreign jurisdiction or arbitration clauses, is often an essential part of litigation strategy especially where there is property of any type in Cyprus that could become the subject of enforcement (or entities that are to be placed under winding up proceedings). The Cyprus Courts are often asked to issue orders in aid of pending (or even anticipated) Foreign Court or Arbitration proceedings or to issue Norwich Pharmacal/discovery orders and post judgment, to recognise/enforce any judgment/award issued.

The main two reasons for the fact that Cyprus is not a preferred forum for the main adjudication of disputes are in my opinion the following:

- 1.Despite the fact that the legal costs are relatively lower for a party compared to the more “popular” jurisdictions and despite the fact that Cyprus is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and has in place a sufficient legal framework that allows/favours arbitration and also experienced individual practitioners, it has yet to convince the international community that it can operate as an arbitration seat comparable to more established seats such as Paris, UK or Singapore.

- 2.Although the Cyprus Courts do not lack the required competence and experience and they are relatively fast when providing interim relief (especially in cases where such can be provided without notice), they do lack, in comparison to other jurisdictions, in speed when it comes to actually adjudicating a claim. The waiting period for a first instance judgment was usually longer than the corresponding period in other jurisdictions.



It should be added that in my experience/practice, whenever a dispute relates to serious torts such as fraud and conspiracy and there is no forum choice preventing Cyprus from being the forum where a claim is to be promoted, actions are often filed and promoted before the Cyprus Courts. I believe that one reason for this phenomenon, may be that in some of these cases the claimant does not have the option to resort to arbitration and take advantage of the speedier dispute resolution offered thereby. Another reason may be that because of the nature of such disputes, there are many contested facts. This means that the hearing on the merits of the case will be long with many witnesses (and therefore the cost can be high) and the outcome uncertain.

As the Cyprus Courts are not considered less reliable or impartial compared to Courts in other jurisdictions, or the advocates that will represent the parties less skilled or experienced, the cost factor may outweigh the time factor in cases where a claimant cannot hope for the speediest adjudication anyway or when the sum claimed does not justify choosing a more expensive jurisdiction.

It is a matter of fact that the recent events and primarily the war in Ukraine, have affected dispute resolution worldwide, including Cyprus. The sources for new disputes are changing in a dynamic manner creating new challenges.

It must be emphasised that the realisation that we are now living in a new world where the survival of the Rule of law itself is on the line, has already set in and that the legal world of Cyprus is currently reacting and showing some remarkable signs of adaptation to the new reality.



The avalanche of judgments issued in the past, recognizing awards revealed the general pro-arbitration stance of the Cyprus Courts. The inaugural Cyprus Arbitration Day conference, held in Limassol last May, actively demonstrated the quick reflexes and the willingness/determination of the Legal community of Cyprus to do what is necessary to promote arbitration as a contemporary alternative and effective mode of dispute resolution in Cyprus, for parties that seek impartiality, speed and lower costs. The emphasis on the MENA region and the promotion of Cyprus as a dispute resolution centre in this region was welcomed warmly from participants from 15 countries, mainly from the Middle East and Europe.

In parallel the radical amendment of the Civil procedure Rules that are to take effect next Autumn, aims at drastically reducing the time it will take to have a hearing of a case at Cyprus Courts by implementing a “busy” pre-trial stage that will allow for a speedy trial. The results will of course be seen in practice, but the intention to have a faster judicial system, manifested by this important step, was further enhanced by the appointment of a significant number of new judges. Furthermore, a Commercial Court is to be established soon which will deal, among other things, with larger claims of a commercial nature and allow proceedings to take place in English.

In addition, the restructuring of the Supreme Court and the very recent establishment of the new Court of Appeal relieved from the duty to try Constitutional matters and comprised of 16 additional judges, inspires hope that the time of adjudication of International disputes at both the first and the second instance level will be shortened significantly.

In fact I am sure that in the dawn of this new era, there are now even more reasons to suggest that Cyprus is becoming a more attractive option for future claimants not only as an ancillary but also potentially as a main forum for International dispute resolution.



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