Litigation and enforcement in Cyprus: overview

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Country Q&A | Law stated as at 01-Jan-2020 | Cyprus

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; the use of ADR; and any reform proposals.

To compare answers across multiple jurisdictions visit the Litigation and enforcement *Country Q&A tool*.

This Q&A is part of the global guide to dispute resolution. For a full list of jurisdictional Q&As visit *global.practicallaw.com/dispute-guide*.

Main dispute resolution methods

1. What are the main dispute resolution methods used in your jurisdiction to resolve large commercial disputes?

Litigation

In Cyprus, the most common method of resolving large commercial disputes is by litigation, usually in the highest level of the district (first instance) courts.

Cyprus is a common law jurisdiction and its justice system is based on the adversarial model. Most of Cypriot law has been modelled on English common law, the basic principles of which are directly applied by Cyprus courts (*section 29, Courts of Justice Law*). The courts are bound by the doctrine of precedent, according to which the superior courts' (second instance) decisions bind subordinate courts. Where there is no applicable Cypriot legislation, English common law and equity are applicable, and English authorities have persuasive force and in some cases may be considered binding law. However, where the common law has been interpreted by the Supreme Court of Cyprus in a particular way, the subordinate courts will be bound by that interpretation. Cyprus's courts are divided into two tiers of hierarchy, the Supreme Court and the lower first instance courts.

The Supreme Court has unlimited jurisdiction and its decisions when operating as an appeal court are final, unless overturned by the European Court of Human Rights (ECHR) or the European Court of Justice (ECJ).

In Cyprus, the courts follow and apply the procedural rules adopted for each type of court. The Civil Procedure Rules (CPR) apply to all district court civil procedures and in civil procedures before other courts, in some instances mutatis mutandis. Additional procedural rules may be applicable 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*). Certain limitation periods apply to bringing a claim in the Cyprus district courts, which are set out in the Limitation of Actions Law (Cap.15) (*see Question 2*).

Arbitration

Arbitration has long been used as a means of dispute resolution for construction or building contract disputes and its use is mandatory in disputes relating to co-operative institutions. Arbitration clauses have increasingly been used in all forms of contracts as the means of resolving disputes arising out of such contracts. A dispute submitted to arbitration may be resolved more quickly and cost-effectively than one submitted to litigation. For more information, see *Question 30, Question 30*.

Court litigation

Limitation periods

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

Statutory limitation periods are set out in the Limitation of Actions Law, which was suspended in 1964 by the Law of Suspension of Limitation of Actions. Since 2002, a number of laws have "revived" the limitation period, but in practice these have not come into force yet. The law that currently regulates limitation periods is the Limitation of Actions Law 66(I)/2012, which came into force on 1 July 2012 with a transition period of one year. It was suspended until December 2015 and at the time of writing has not been suspended further.

Under Law 66(I)/2012, the limitation period starts to run from the perfection of the claim/cause of action. Generally, Law 66(I)/2012 provides that no action can be brought if ten years have elapsed since the occurrence of the claim/cause of action (*see section 4, Law 66(I)/2012*). The limitation period is different depending on the nature of the cause of action, for example:

- Claims brought in respect of a mortgage or pledge: 12 years from the breach of obligation contained in the mortgage or pledge.
- General torts, for instance assault: six years from the date the damage occurred or from the date of knowledge of the injured party.

- Torts that relate to damages for negligence, nuisance or breach of duty: three years from the date the damage occurred or from the date of knowledge of the injured party.
- Torts that relate to claims for defamation or malicious falsehood: one year from the the date of publication.
- Common contract claims: six years from the breach of contract.
- Claims brought in relation to a contract or quasi-contract for an agreed or reasonable fee for the services rendered by a lawyer, doctor, dentist, architect, civil engineer, contractor or any other independent professional: three years from the completion of the cause of action.
- Claims brought in respect of loan agreements: six years from the date of service of the written demand from the lender to the debtor.
- Claims for fraud, deceit or mistake: Law 66(I)/2012 does not specify a separate limitation period for claims in fraud, deceit or mistake. If the claim in fraud is in relation to a contractual relationship then the applicable limitation will be the limitation applicable in contract claims (six or three years, depending on the type of contract (*see above*)). If the claim in fraud is brought on the basis of tort law, the applicable limitation period will be the limitation applicable to claims in tort (six years (*see above*)). The limitation period starts to run when the claimant discovered the fraud, or when he or she could, with reasonable diligence, have discovered it (*see section 14, Law 66(I)/2012*).

Court structure

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

Large commercial cases are heard by the district courts of Cyprus, which try all civil cases at first instance. 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, and district judges with jurisdiction to try claims below EUR100,000.

The Supreme Court has unlimited jurisdiction and its decisions when operating as an appeal court are final, unless overturned by the ECHR or the ECJ. It acts as an:

- Appellate court.
- Admiralty court.
- Electoral 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 in cases where, because of the importance of the case, the hearing can take place before an enlarged panel. When the Supreme Court exercises its first instance jurisdiction (in all cases except when it acts as an appellate court), the case is heard by one judge.

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

- Family law courts.
- Rent control courts.
- Industrial disputes and military courts.
- Administrative courts.

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

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

Rights of audience

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

Rights of audience/requirements

Under the Advocates Law (Cap. 2), a person can be registered to practise as an advocate in Cyprus and conduct court proceedings if he/she has 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/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 his/her usual residence in Cyprus.
- Has a law degree from a university in Greece, Turkey, England or Northern Ireland, or the Republic of Ireland, or any other university or institution recognised by the Legal Board, or is a barrister of England, Northern Ireland, or the Republic of Ireland, or an advocate in Scotland.

- 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.

Since there is no distinction between barristers and solicitors in Cyprus, a person admitted to the Cyprus Bar is deemed to be duly authorised and is therefore entitled to act both as an advocate/lawyer and/or legal consultant in Cyprus. The Bar certification is annually renewed following an application to the Pan Cyprian Bar Association.

Foreign lawyers

A foreign EU advocate who does not reside or is not registered in Cyprus is entitled to provide legal services in Cyprus on occasion and in relation to a particular matter if the following conditions are met:

- The foreign advocate uses in Cyprus his/her professional title, in the official language of his/her member state of origin. The advocate must also indicate the professional association with which he/she is registered as a member, or the court before which he/she exercises the profession in accordance with the legislation of the member state.
- The foreign advocate exercises 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 exercising the profession 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 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 such services, as well as the foreign advocate's address, information on the legal board/ association of his/her member state of origin and the name and address of the Cypriot advocate with whom he/she will be associated; and
    - a declaration that he/she has not received any disciplinary penalties.

A foreign EU advocate who wishes to permanently exercise the legal profession in Cyprus must be registered in the relevant part of the Advocates Registry. Registration will be permitted by the 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 his/her activities and that his/her practice licence has not been terminated or suspended.

Additionally, the 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 such 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 in large commercial disputes is often based on hourly charging rates. Charging rates can be standard or agreed between the lawyers and the client. Most often, the matter of fees and payment is determined before the initiation of legal proceedings by a written agreement between the parties. Depending on the wishes of the client, fixed fees may be agreed for a specific part of the litigation proceedings (for example, up to the filing of the action and application for interim order). Charging rates are controlled and supervised by the Bar Association and the 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 will be calculated in accordance with the Court Procedural Regulations on the basis of court scales, which set the minimum and maximum suggested limit of a claim.

Contingent, success and/or damages sharing agreements are prohibited in Cyprus, as they are contrary to the principle of champerty.

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

Funding

Commonly, commercial litigation is funded by the parties themselves and the losing party usually bears the costs of the winning party (*see Question 22*). A party who cannot afford to pay the litigation costs can request legal assistance from the state. There are no known instances of litigation funding by a disinterested third party. The main objections to third party funding relate to public policy grounds as well as the application of the equitable principles of champerty and maintenance. However, the matter has not yet been regulated nor examined by the Cyprus courts.

Insurance

From 2016, insurance for litigation costs has been available under the Law on Insurance and Reinsurance and other Related Matters (Law 38(I)/2016). In particular, section 238 of Law 38(I)/2016 provides that insurance is available in relation to civil and criminal court proceedings as well as out-of-court settlement. The law does not specify whether such insurance is available for alternative dispute resolution proceedings such as arbitration. However, Law 38(I)/2016 only recently came in force and its provisions have not yet been applied.

Court proceedings

Confidentiality

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

Hearings in civil cases before the district courts are usually public. This means that judgments, decisions and orders issued in these proceedings can be heard by the 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/entity applying for access is interested in intervening or becoming a party to a pending action. Cases of a criminal nature 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 yes, are there penalties for failing to comply?

Cyprus courts do not normally impose any rules on the parties in relation to pre-action conduct.

Main stages

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

Starting proceedings

Legal proceedings in a district court are initiated when a writ of summons or an originating summons is filed and sealed at court. The writ of summons can be generally endorsed (containing only a list of the remedies sought) or specially endorsed (containing a statement of claim providing the main factual background on which the cause of action is founded). Where a generally endorsed writ of summons is submitted, a statement of claim must be filed separately within ten days from the date of filing of the defendant's note of appearance.

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. In Cyprus, there is no option or obligation for the proceedings to be commenced online.

Notice to the defendant and defence

Copies of the writ of summons 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 via a private bailiff, unless leave for substituted service is obtained. A writ of summons cannot be in force for more than 12 months from the day of its issue, unless renewed by a court order.

On service of the writ of summons, the defendant has ten days to file an appearance and then a defence must be filed within 14 days. If the defendant fails to file an appearance within the prescribed period, the claimant can apply for and obtain a default judgment. A defendant can file an appearance outside the prescribed time limit to block the issue of a judgment in default.

If the defendant files an appearance but not a defence, the claimant can file an application for issuance of judgment without a full hearing being conducted. Additionally, where the defendant files an appearance or a defence to a specially endorsed writ of summons, the claimant can, where appropriate, apply for a summary judgment on the grounds that there is no defence to the action (*see Question 10*).

When a defence is filed, the claimant can file a reply to the defence within seven days from its service. If the defendant submits a counterclaim, the claimant must file a reply to the defence and a defence to the counterclaim within 14 days from its service. However, quite often the parties do not follow the prescribed time limits. Therefore, the process takes longer to be completed as the periods prescribed by the CPR can be and usually are prolonged by the court. The filing of a pleading out of time is considered an irregularity, but a party can usually take steps to remedy irregularities.

Subsequent stages

Once the pleadings are closed, the claimant has 90 days to issue and file a summons for directions together and in accordance with form 25 requesting the issuing of specific directions by the court (*order 30, rule 1 (a) and (b), CPR*). Directions can relate to:

- Any admitted facts and documents.
- Discovery, disclosure and inspection of documents.
- Any costs in the proceedings.

- Further and better particulars.
- Reference of issues to arbitration.

If the claimant fails or omits to issue the summons for directions in the described manner, the defendant can request the dismissal of the action within 15 days. Dismissal of the action by the court will not restrict the filing of a fresh action.

Once the claimant has filed a summons for directions, the defendant must complete and file form 25 specifying the directions to be ordered by the court within 30 days from the filing and service of the claimant's summons for directions.

The above time frames can be extended by leave of the court, if the court is satisfied that there are circumstances rendering compliance with these time frames impossible or other good reasons for the granting of such leave.

There is a wide range of other applications that can be made before the hearing of the action commences (for example, for the consolidation of actions or amendment of the pleadings). Notably, applications for amendment can be allowed even after the hearing begins, but almost any other application must be filed or entertained before the hearing.

In Cyprus there is no option or obligation for subsequent or interim procedures to be progressed or conducted online nor there is an option to file any court documents, applications or pleadings online or in electronic form. All court documents, pleadings and applications must be filed in hard copy before the Registrar of the Court bearing the necessary stamps.

Once all interim procedures are concluded, the case will be set for hearing and, depending on the court schedule; it may take about three years from the date of filing to be heard. At the hearing, the claimant must prove its case on the balance of probabilities by adducing sufficient and admissible evidence regarding all allegations that are not admitted by the defendant. The same applies for the counterclaimant. Following the conclusion of the hearing and the advocates' final addresses, a judgment is issued.

The claimant, if successful, will need to take steps to enforce the judgment against the defendant (*see Question 24*).

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?

Under Cyprus law and procedural rules, a party can bring proceedings to have the case dismissed before the full trial.

One option available to the claimant is to apply for a summary judgment on the grounds that there is no defence to the action. Summary judgment proceedings are governed by Order 18 of the CPR. Although a summary judgment does not always result in the final adjudication of a case, it is a fast-track procedure that can be used by a claimant

seeking the quick adjudication of its claim, in instances where it has good and valid reasons to believe that the defendant has no defence. To successfully obtain a summary judgment, the following conditions must be satisfied:

- The writ of summons must be specially endorsed.
- The defendant has filed a notice of appearance.
- The affidavit made in support of the application must be made either by the claimant or any other person who can positively swear the facts giving rise to the claimant's claim and can verify the claimant's cause of action and claim as well as the remedies and/or any amount sought by the claimant. If the claimant is a legal person, the affidavit can be signed and sworn by an employee of the claimant, who can positively swear the facts of the case. The affiant must provide a clear statement that to the best of his/her knowledge and belief the defendant has no defence.

If the above conditions are met, the burden is shifted to the defendant to prove that it has an arguable defence or to disclose sufficient facts to the court to obtain court permission/leave to file a defence.

A defendant can apply to the court to have the claim dismissed and/or set aside and/or request to strike out part or the whole action. Applications of this nature are usually based on the following grounds:

- The Cyprus courts lack jurisdiction to try the case and/or are not the appropriate forum to try the case. A defendant that wishes to challenge the jurisdiction of the Cyprus courts must obtain leave and/or permission of the court to file a conditional appearance.
- The proceedings and/or cause of action relate to a matter already settled by a binding, final and conclusive judgment. In these cases, the doctrine of *res judicata* will apply and the court will dismiss the proceedings.
- The proceedings are frivolous and vexatious or constitute an abuse of the court's process. Cyprus case law has established that an order for strike out is of a draconian nature, so that the power to strike out an action must be exercised very sparingly and in very clear cases.
- The proceedings and/or pleadings do not disclose a good and/or reasonable cause of action. However, the Cyprus courts have broad powers to decide against the dismissal of the action while granting leave to amend.

An application to set aside/dismiss or strike out court proceedings must be made without delay and as soon as possible, preferably before the filing of a statement of defence. The application must be accompanied by an affidavit setting out the facts of the case and specifying the grounds that justify the filing of the application. The court will give time to the opposing party to file a notice of opposition supported by an affidavit. Once the opposition is filed, the court will fix the application for hearing that will be conducted on the basis of the affidavits submitted. If the parties wish to proceed with a cross-examination of witnesses, the court has discretion to allow cross-examination on the contents of their affidavits.

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

A defendant can apply for an order for the claimant to provide security for costs at any stage in the proceedings. Typically, the amount of security that can be ordered is the amount of costs expected to be incurred in defending the action. To obtain an order for security for costs, the claimant must both:

- Be domiciled outside the EU.
- Have insufficient assets in Cyprus to satisfy any costs order that may be made against him/her.

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 (*section 182, Companies Law Cap.113*).

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

A claimant or defendant who is raising a counterclaim can, if it is deemed necessary and appropriate, file an application for interlocutory relief (for example, a Mareva injunction, an Anton Piller order or the appointment of a receiver) either by summons or, in urgent circumstances, without notice. For a court to grant such 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, taking into account 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. When the application is made ex parte, the applicant 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.

Prior notice/same-day

The Cyprus courts can issue interim orders without prior notice and on the same day if the urgency of the matter is established. When deciding whether to issue an interim order on an ex parte basis, the court takes into account the following criteria:

- Whether it is just and equitable to issue the interim order.
- Whether the case is of an urgent nature.

- Whether the applicant has complied with its duty to disclose all the relevant material and information to the court.

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

Mandatory injunctions

Cyprus courts have wide discretion to issue interim orders and injunctions, including prohibiting and mandatory injunctions ordering the respondent to act in a particular manner or perform certain activities. 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 (*see above*).
- It is just and equitable to issue the requested order.

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

Right to vary or discharge order and appeals

As a general rule, a judgment/order/injunction issued by a lower court can be appealed by any party to the proceedings. An appeal against an interim injunction/order can be filed before the Supreme Court of Cyprus.

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 (that is, freezing orders restraining the respondent from removing any property assets out of the jurisdiction until the final adjudication of the case or until the issuing of a subsequent order), the conditions in section 32 of the Courts of Justice Law must be met (*see Question 12*). The scope of section 32 is significantly broad. Therefore, in exercising their civil jurisdiction, the Cyprus courts have extensive powers to issue interim orders in all cases where it is considered just and fair, and deemed necessary under the circumstances, to achieve justice. This means that the courts have the power to issue freezing orders not only to prohibit the removal of assets from the jurisdiction, but also to prevent the respondent from dissipating assets in general.

Interim attachment orders, commonly referred to as Mareva injunctions, are often issued by the Cyprus 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 status quo pending the final adjudication and determination of the issues of the relevant proceedings.

Freezing orders can be granted in relation to assets, including both tangible and intangible assets, inside and outside Cyprus. In the landmark case of *Seamark Consultancy Services Ltd a.o. v Joseph P Lasala a.o., (2007) 1 C.L.R. 162*, the Supreme Court of Cyprus recognised the possibility for the Cyprus courts to issue Mareva-type orders relating to assets outside the jurisdiction (that is, worldwide freezing injunctions). However, the courts generally do not easily issue an order that is likely to concern 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*).

In addition, Cyprus courts also asserted jurisdiction in issuing orders by way of a "Chabra" injunction (*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. The Cyprus courts have jurisdiction to issue Chabra freezing orders against persons in relation to whom there is no cause of action or claim where there are grounds to believe that such persons are in possession of, or control assets to which the principal defendant/respondent is beneficially entitled.

Prior notice/same-day

See *Question 12, Prior notice/same-day*.

Main proceedings

The Cyprus courts can issue freezing orders when the main proceedings are not taking place in Cyprus. These are commonly known as interim orders in aid of foreign proceedings. Cyprus courts have jurisdiction to issue interim orders in support of the following proceedings:

- Judicial proceedings before the Cyprus courts.
- Arbitration proceedings in Cyprus.
- Judicial proceedings pending before the courts of EU member states (excluding Denmark). Under Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast Brussels Regulation), Cyprus courts can issue an interim order at any time in aid or support of court proceedings pending before the courts of an EU member state without the need to file substantive proceedings in Cyprus.
- International commercial arbitration proceedings in any state (EU and non-EU) (*section 9, Cyprus 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 who 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 very rare in practice. 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 an undertaking, bank guarantee or cash, depending on the court's instructions.

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

Cyprus courts have a wide discretion to issue various interim measures. In addition to the injunctions and orders discussed in *Question 12* and *Question 13*, Cyprus courts are likely to issue the following types of interim orders.

Norwich Pharmacal type disclosure orders

These orders are designed to force a third party to divulge the details of a wrongdoer so that the applicant/claimant can bring a named action against them. A Norwich Pharmacal order is essentially an order under which a respondent who is involved or mixed up in a wrongdoing (whether innocently or not) is required to disclose certain documents and/or information to the applicant, for example, to identify the wrongdoer or trace its assets. Typically, an application for a Norwich Pharmacal order will be made where, without the information requested, no claim can be brought against the wrongdoer or property misappropriated may not be found. Cyprus courts have acknowledged the discretion to issue a Norwich Pharmacal order in cases 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 and/or the application to the public in general, any potential defendants and/or any other unauthorised third party.

Ancillary disclosure orders

It is a common practice for applicants to 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 are usually granted against a respondent/tortfeasor and allow the entering into the respondent's house and/or personal or business premises to obtain information and/or documents that are very likely to be destroyed. As Anton Piller orders are draconian in nature, the court will apply strict criteria in considering whether to grant them. 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 ex parte (without notice), as giving notice of such proceedings would effectively negate the whole process and inevitably lead to destruction of evidence by the respondent.

Receivership orders

In addition to disclosure orders, the Cyprus courts can issue another type of ancillary relief to freezing orders, namely, orders for the appointment of an interim receiver or an administrator of assets. Such an order is deemed appropriate in cases where an injunction is insufficient on its own. These cases are likely to arise where there is a measurable risk that a defendant/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.

When issuing a receivership order, the court will normally request the applicant to secure the fees of the potential receiver by way of a bank guarantee. The court order will also stipulate the powers, duties and rights of the interim receiver. The receiver can sometimes exercise voting rights in holding companies to protect assets held by their subsidiaries.

Quia timet injunctions

Cyprus courts will grant quia timet injunctions in cases where no actionable wrong has been committed, with a view to prevent the occurrence or repetition of an actionable wrong. To obtain such an injunction, the applicant must show that, unless the court grants the injunction, there is a real risk that an actionable wrong will be committed. The court will normally not grant a quia timet injunction on plain allegations of fear on the part of the applicant. The claimant must show that the respondent has actually threatened to do the particular wrongful act.

Anti-suit injunctions

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

Final remedies

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

A party can seek most of the remedies usually available under common law and the principles of equity. The Cyprus courts have broad powers to award a variety of remedies to a successful claimant. Most commonly, the following remedies are awarded for civil and commercial claims:

- Compensatory damages (general/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/judgments recognising an ownership status, declaring as unlawful, void and/or without legal affect the acts and operations of a defendant, and so on.
- 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 emanating 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 detailed rules governing this procedure?

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.

Any party to a proceeding can request the court to order another party to disclose under oath the documents that are or were in his or her possession and relate to the matters of the proceedings, and to allow for their inspection (*order 28, CPR*). The court can order such 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.

Documents referred to in pleadings or affidavits must be produced or allowed for inspection where the other party requests it in writing. 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.

In Cyprus there is no option/obligation or requirement to file/submit the affidavit of disclosure online or in electronic form.

Privileged documents

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

Privileged documents

As a rule, privileged documents cannot be used as evidence and their admissibility can be challenged by the party who can claim the privilege. Privileged documents include:

- Confidential communications between lawyers and clients (*see below*).
- Documents that tend to self-incriminate.
- Documents that are sent for negotiation purposes/"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 will look at the purpose of the document objectively, taking into account all the circumstances.

Legal professional privilege applies to practising but not in-house lawyers, as in-house lawyers are not members of the Cyprus Bar Association.

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.

Other non-disclosure situations

Privileged documents that are deemed confidential cannot be disclosed (*see above, Privileged documents*). Documents marked as "without prejudice" enjoy the same level of protection and are therefore deemed confidential. These include communications between the parties' lawyers discussing the case or potential settlement options.

Examination of witnesses

18. Do witnesses of fact give oral evidence or do they only submit written evidence? Is there a right to cross-examine witnesses of fact?

Oral evidence

A witness of fact can adopt the content of a written submission or statement during the chief examination (*section 25, Evidence Law*). The written statement is deemed to be the witness' chief examination or at least part of it. In 2010, the Supreme court confirmed the validity of the above method to conduct the chief examination (*Pierou v Elia (2010) 1B CLR 843*).

Where the court is faced with an opposition to the submission of a written statement (that is, in cases where the opposing side has strong reasons to challenge the validity and credibility of the witness and evidence), the court retains discretion to 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 factor (such as the parties' right to a fair trial).

Traditionally, the courts of Cyprus have applied the common rules of evidence as codified by the Evidence Law (Cap. 9). Until 2004, hearsay evidence was deemed inadmissible by the Cyprus courts. Since the passing of the Evidence (Amendments) Law 32(I)/2004, hearsay evidence must not be excluded from any court procedure merely because it is hearsay.

Interim applications are usually heard through the affidavits filed in support. These affidavits contain written evidence and are sworn by a witness of fact. In certain cases, the parties can file an application requesting cross-examination of the witness.

In other proceedings, such as a petition for the winding-up of a company, witnesses provide a mixture of oral and written evidence.

Where the parties agree, the court can give directions for the exchange of full evidence in writing, so the fast trial procedure provided by the CPR in relation to low-scale cases will apply.

Right to cross-examine

The hearing of a case in Cyprus is conducted in three stages:

- Examination in chief.

- Cross-examination.
- Re-examination.

There is a right to conduct cross-examination and re-examination within specific time limits provided by the CPR and the court.

Third party experts

19. What are the rules in relation to third-party experts?

Appointment procedure

Each party can choose to appoint a third-party expert witness to testify orally before the court and/or give a written expert opinion or affidavit. An expert should be independent and adequately competent in his/her field of expertise.

Role of experts

An expert witness has the duty to provide the court with all the necessary scientific/technical information for the purposes of examination by the court of the correctness of the expert's conclusions, once the court applies that information to the specific facts of the case that have been proved (see *Koinotiko Simvoulio Omodous v Annas Konnari (2011) 1 AAD 2298*).

The general rule is that an expert witness can give his/her opinion on facts that are either admitted or proved by himself/herself 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 his/her own knowledge (see *Ramsdale v Ramsdale (1945) 173 L.T. 393; R v Somers [1963] 1 W.L.R. 1306; 48 Cr.App.Ar 11 CA*). The expert should also clarify which facts he/she relies on in forming an opinion.

Right of reply

The other party can cross-examine the expert witness called by their opponent and, if their case did not close, call an expert witness themselves to rebut the other party's expert report.

Fees

There are generally no fixed experts' fees. These are basically agreed between the expert and the appointing party, who is responsible to pay the fees.

Appeals

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

The rules governing appeals in large and smaller disputes are identical.

Which courts

All first instance court judgments (including judgments issued by Supreme Court judges) are subject to appeal before the Supreme Court, which has exclusive jurisdiction to adjudicate finally an appeal. Its judgments are final, unless overturned by the ECHR or the ECJ. The Supreme Court can uphold, vary or set aside the subordinate court judgment or can order retrial of the case. Appeals against judgments in civil actions are usually heard by a panel of three judges, except in cases where the hearing may take place before an enlarged panel because of the importance of the case. Under Cyprus law and legal principles there is no requirement for the appellant to obtain permission to bring an appeal before the Supreme Court.

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.

The Supreme Court cannot intervene in the exercise of the inferior court's discretion, unless it is satisfied that it was wrongly exercised (see for example, *Tegkerakis Vyron, administrator of the estate of Korina Tegkeraki (Hadjipanagi Yianni) v Municipality of Nicosia (2005) 1 A.A.Δ. 289*). If necessary, the Supreme Court must examine the facts of the case as well as the surrounding circumstances that have led to the inferior court's judgment.

Any judgment or order can be appealed wholly or partly. The notice of appeal filed by the appellant must state whether the whole or only part of the judgment or order is challenged and specify the relevant part (if applicable). The Supreme Court, when acting as an appellate court, can draw inferences of fact and give any judgment and make any order which ought to be made, and to make such further or other order as the case may require, even in cases where only part of the judgment is challenged.

The Supreme Court has the power to hear further evidence on facts, but will only do so in exceptional cases and on special leave of the court. However, no special leave is required in relation to interlocutory applications or in relation to matters that occurred after the date of the appealed judgment. Further evidence can be received either by oral examination or by affidavit or deposition taken before an examiner or commissioner (*Order 35, Rule 8, CPR*).

Time limit

An appeal against an interlocutory order or judgment must be brought within 14 days and any other appeal must be brought within six weeks from the date the order or judgment becomes binding, unless this timeline is extended by either the issuing court or the Supreme Court.

Class actions

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

Class actions are available where the following conditions are met:

- The right of relief of the claimants arises out of the same transaction.
- There is a common question of law or fact.
- It is advantageous or convenient to bring such an action (for example, to save costs and time).

Costs

22. 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?

As a general rule, the costs in civil litigation proceedings follow the event, that is, the losing party bears the costs of the proceedings. However, the court has discretion to order otherwise, meaning it 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 under the given circumstances. The conduct of the parties during the proceedings will be taken into account.

Cyprus courts have wide discretion to determine the amount of costs to be awarded to the winning party, which include VAT and disbursements. It is common practice for the court to issue an order for the assessment and/or taxation of costs by the Registrar of the District Court, unless for example the parties have come to an agreement as to costs according to the relevant court scales of costs. Such an assessment is made by reference to the court scales regardless of whether the charging of fees is the subject of a written agreement between the parties. Any private agreement between lawyer and client on legal fees will not be taken into account. This effectively means that the costs actually recoverable are usually minimal in comparison with what is actually paid by the parties in large private commercial disputes.

The amount of costs in civil proceedings vary significantly, depending on the size and complexity of the case.

23. Is interest awarded on costs? If yes, how is it calculated?

The usual practice is for interest to be awarded from the date of the court's judgment until the final settlement of the judgment debt.

Any decisions, including those relating to legal expenses, must (unless otherwise provided in the decision) bear legal interest from the date of filing of the action until the final settlement of the judgment debt, the rate of which is determined by the Minister of Finance (*Article 33, Courts of Justice Law*). The current interest rate (from 1 January 2017) is 3.5%. The Minister of Finance can revise the rate of interest in December of each year.

However, the court has discretion to award interest as follows:

- 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

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

A judgment becomes automatically enforceable on issue, without the need to be registered or for any further measures to be taken, apart from the enforcement procedure that will follow. The judgment creditor has several options on how to proceed with execution of the judgment debt.

Under the Civil Procedure Law (Cap. 6), every court's decision ordering the payment of money can be enforced through all or any of the following methods:

- A writ of execution for the sale of movables.
- A writ for sale of immovable property or registration of a charging order over the property.

- A writ of sequestration of immovable property.
- A garnishee order. Under this method of execution, 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 a first step, the court issues a garnishee order nisi, under which the garnishee is forbidden from alienating in any way 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 in any way the amount determined in the order. The garnishee or the judgment debtor can file an opposition to such an 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 as much of it as may be sufficient to satisfy the amount of the judgment.
- An order to the judgment debtor to make payments over the debt on a monthly basis. The amount and dates of the payments will be determined by the court according to the financial position of the judgment debtor.
- A writ of possession, ordering property to be delivered to the judgment creditor.
- A writ of delivery, ordering movable property to be delivered to the judgment creditor.
- Injunctions and other orders encumbering the interest of the judgment debtor on shares and other stock owned (*Encumbering Orders Law 1992 (Law 31(I)/1992)*).

In addition, bankruptcy or liquidation proceedings can be initiated against a judgment debtor. These are not enforcement methods in that they do not guarantee payment of the judgment debt, but they are often used as a pressure mechanism.

Cross-border litigation

25. Do local courts respect the choice of governing law in a contract? If yes, 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 to non-contractual claims?

Contractual choice of law

The Cyprus courts will almost invariably respect a choice of governing law in a contract, provided that it was clearly the intention of the parties. The parties to a contract are free to choose the law that governs whole or part of their contract, even where the chosen law has no connection, or no apparent connection, with the transaction in issue. This principle is specifically embodied in Regulation (EC) No 593/2008 on the law applicable to contractual obligations (Rome I), which provides that the choice of law must be either expressed or clearly demonstrated by the terms of the contract or the circumstances of the case.

However, in cases where all other elements relevant to the situation at the time of the choice are connected with one country only, a choice of a foreign law will not prejudice the application of rules of the law of the country which cannot be derogated from by contract (mandatory rules) (*Article 3(3), Rome I*). Additionally, the Cyprus courts can restrict the application of a foreign law if it is incompatible with public policy.

A foreign law must be pleaded and proved as a fact. Therefore, the parties bear the burden to prove the applicable foreign law. If they fail to do so, the foreign law is presumed to be similar to Cyprus law and the courts will apply domestic law (see *Royal Bank of Scotland v Geodrill Co Ltd κ.α. (1993) 1 A.A.D. 753* and *Sat Vision Ltd v Interamerican Property and Casualty Ins. Co. (1999) 1(C) A.A.D. 1811*).

No choice of law and non-contractual claims

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

If the claim is not contractual in nature, the Cyprus courts will generally apply Cyprus law if the damage has occurred within the jurisdiction of Cyprus in accordance with Regulation EC No. 864/2007 (Rome II). However, 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 will apply (*see Article 4*).

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 has occurred, the applicable law will be the law of the said country.

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

26. 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?

As a basic principle, the courts in Cyprus will exercise jurisdiction over a dispute if the defendant is domiciled in Cyprus irrespective of his/her nationality (*see Recast Brussels Regulation*). Generally, the Cyprus courts will respect and insist on the application of a jurisdiction clause contained in a contract, unless either party proves that Cyprus is not the appropriate forum. However, even if Cyprus is not deemed as the appropriate forum, the 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/anchor defendants.

In addition to the above local courts can have exclusive jurisdiction despite the existence of a jurisdiction clause in the following instances.

- 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.

- In proceedings that have as their object the validity of the constitution, the nullity or the 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.

  (Recast Brussels Regulation.)

27.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?

The general rule is that service of judicial documents in Cyprus is effected through a process server either to the defendant/respondent/interested party in person or at his/her house or usual place of employment (*order 5, rule 2, CPR*). However, if this is not feasible, a party can request leave from the court for substituted service (for example, through a publication if that is just and equitable).

Regarding foreign proceedings, the method of service in Cyprus depends on any existing treaty or agreement between Cyprus and the country where the proceedings take place. For example, if the proceedings are conducted in an EU member state, Regulation (EC) 1393/2007 on the service in the member states of judicial and extrajudicial documents in civil or commercial matters (Service of Documents Regulation) applies. The Service of Documents Regulation aims at an efficient and speedy transmission of judicial documents between member states and applies to all member states apart from Denmark, but only in cases where the address of the person to be served is known. Judicial documents must be transmitted directly and as soon as possible between the designated transmitting and receiving agencies (*Article 4, Service of Documents Regulation*). In Cyprus, the Ministry of Justice and Public Order has been designated as the receiving agency. The receiving agency must itself serve a document or have it served, either in accordance with the law of the member state addressed or through a particular method requested by the transmitting agency, unless that method is incompatible with the law of that member state (*Article 7, Service of Documents Regulation*). Section 2 of the Service of Documents Regulation provides for alternative methods of service of judicial documents. A member state can:

- Use its consular or diplomatic channels to forward judicial documents to the designated agency in Cyprus.
- Use its diplomatic or consular channels or postal services (by registered letter) to effect service of judicial documents directly on persons residing in another member state.

Additionally, any person interested in judicial proceedings can effect service directly through the judicial officers, officials or other competent persons of the member state addressed, if such direct service is permitted in that member state (*Article 15, Service of Documents Regulation*).

Cyprus is also a signatory to the HCCH Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965 (Hague Service Convention). This provides for:

- Service of judicial documents by postal channels, directly to persons abroad.

- Judicial officers, officials or other competent persons of the state of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the state of destination.
- Any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the state of destination.

(Article 10, Hague Service Convention.)

Cyprus did not object to the application of Article 10. The Ministry of Justice and Public Order has been designated as the appropriate body to forward requests for service to the Chief Registrar of the Supreme Court of Cyprus, which in turn passes them on to the Registrar of the competent district court (that is, where the addressee is located) to be served according to the procedure prescribed by domestic law.

In addition, Cyprus has entered into bilateral agreements with a number of countries on the service of documents.

28. 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?

The Cypriot courts can provide various types of assistance to foreign courts. Under bilateral treaties and multinational conventions that Cyprus has entered into, 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. As an EU member state, Cyprus is also bound by Regulation (EC) 1206/2001 on co-operation between the courts of the member states in the taking of evidence in civil or commercial matters, which provides for a 90-day deadline for the execution of a request for the taking of evidence, facilitating expeditious assistance among the courts of member states.

Enforcement of a foreign judgment

29. What are the procedures to enforce a foreign judgment in your jurisdiction?

EU judgments

The Recast Brussels Regulation applies to judgments issued in EU member states on or after the enactment of the Regulation (that is, 10 January 2015). The Recast Brussels Regulation provides for a simplified, nearly automatic,

procedure for enforcement, entailing a check of the documents attached to an ex parte application for recognition. Judgments issued in before the enactment of the Recast Brussels Regulation are governed by Regulation (EC) 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels Regulation).

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

- The status or legal capacity of natural persons, 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.

A judgment given in a member state must be recognised in the other member states without any special procedure being required (*Article 36, Recast Brussels Regulation*). The party wishing to invoke in a member state a judgment issued in another member state 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.

Enforcement of judgments can also be achieved under Regulation (EC) 805/2004 creating a European Enforcement Order for uncontested claims.

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 national law, namely the Foreign Court Judgments (Recognition, Registration and Enforcement based on Convention) Law of 2000 (Law 121(I)/2000). If the foreign judgment was issued by a court of a Commonwealth country, Chapter 10 of the Foreign Judgments (Reciprocal Enforcement) Law 1935 will apply.

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).

- Case where recognition is inconsistent with previously issued judgments between the same parties.

The enforcement of a judgment in Cyprus can take several forms, such as:

- A writ of execution for the sale of movable property.
- Registration of an encumbrance order (memo) over immovable property.
- Execution of a writ of attachment under which money held in a bank account can be used for the payment of a judgment debt.
- Particular execution measures with regard to the freezing or attachment of shares belonging to a judgment debtor.

Alternative dispute resolution

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

The most common means of dispute resolution in Cyprus is litigation. Negotiation can take place either before the initiation of judicial proceedings or during the proceedings. However, ADR methods have been gradually and increasingly used, including arbitration, mediation and conciliation. Many professionals have been training in these fields to obtain relevant qualifications and offer such services to their clients, promoting dispute resolution methods that have various benefits over litigation. Generally, efforts are being made for a more frequent use of ADR, but there is yet a lot to be done before these methods are really established.

Arbitration

Arbitration has long been used as a means of dispute resolution for construction and building contract disputes and its use is mandatory in cases of disputes relating to co-operative institutions. Arbitration clauses have been 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.

Domestic arbitration is governed by the Arbitration Law (Cap. 4), which provides for the applicable procedure and powers of arbitrators. The court has the powers to:

- Appoint an arbitrator.
- Issue orders for security for costs.
- Issue orders for disclosure of documents.

- Issue orders for the maintenance or sale of goods that are the subject matter of the arbitration.
- Issue orders for security of the amount in dispute.
- Issue any other interim orders, such as the appointment of a receiver.

The court can set aside the award where there has been misconduct on the part of the arbitrator or referee, or the proceedings or an arbitration or award have been improperly procured.

Cyprus has ratified the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention) through Law 84/79. Therefore, arbitral awards issued in Cyprus can be registered and enforced in other states signatory to the Convention, and vice versa. Strict compliance with the New York Convention is required for a foreign arbitral award to be registered and enforced in Cyprus.

International arbitration

International arbitration is governed by the International Commercial Arbitration Law (Law 101/87), which is modelled after the UNCITRAL Model Law. Law 101/87 provides for the procedure to be followed, the duties and powers of the arbitrators and the circumstances in which assistance from the national courts may be required, unless these are agreed by the parties. The national courts can issue interim orders in aid of arbitration.

If the parties have not agreed in their arbitration agreement on the procedural law applicable to an international arbitration taking place in Cyprus, the procedural law will be Law 101/87. Even if the parties have agreed to a different procedural law, Law 101/87 may still come into play to fill gaps in the procedure or impose further duties or powers on the arbitrators and the courts. Mandatory provisions of national law must always be followed irrespective of which substantial or procedural law is adopted by the parties.

Mediation

Mediation is an alternative to litigation. Mediation in Cyprus is not a compulsory step before resorting to court. 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 Directive 2008/52/EC on mediation in civil and commercial matters.

Mediation is quite a new concept in Cyprus and, according to the Cyprus Mediation Association, "there is strong opposition from legal circles, who loathe mediation because it bypasses legal proceedings". This is one of the least preferred methods of ADR, since the parties may feel somewhat insecure about resorting to it as its outcome depends on the parties' personal and business interests, and common sense rather than the relevant law.

On the other hand, it may 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, therefore 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.

31. 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. There is no provision under which the courts can compel the parties to engage in ADR. The courts can, and in some cases do, 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.

32. 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. As a general rule, arbitration and mediation are confidential, but disclosure may be permissible in certain circumstances.

33. How are costs dealt with in ADR?

The law does not set fixed amounts for the conduct of ADR proceedings.

34. 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 Chamber of Commerce and Industry (CCCI).
- Cyprus Eurasia Dispute Resolution and Arbitration Centre (CEDRAC).
- Cyprus Arbitration and Mediation Centre (CAMC).

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.

Proposals for reform

35. Are there any proposals for dispute resolution reform? If yes, when are they likely to come into force?

There is currently a major review of the CPR aiming to modernise Cyprus' legal system and assist in achieving the quickest adjudication of cases before the courts.

There have also been discussions for the establishment of a separate division of a Commercial Court that would be handling solely high-value commercial disputes. Despite these discussions, at the time of writing, the commercial court had not yet been established.

Contributor profiles

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Non-professional qualifications. BSc Economics of Industry and Trade, LSE, 1983; Postgraduate Diploma in Law, City University, 1984; Barrister at Law, Gray's Inn, 1985

Recent transactions. Recent cases handled include the following:

- Representing a SPV company belonging to a well-known investment group of companies involved in the production and supply of coal in Eastern Europe, in a high-profile dispute against the state of Montenegro, among others. The claim is based on alleged breaches of contract, fraud and wilful frustration of the substantial amount of about EUR150 million, which was invested by the client company for the acquisition and management of a semi-state owned aluminium plant via a public tender aiming to support the economy of Montenegro.
- Acting for one of the largest leading banks of Russia in a lengthy multi-jurisdictional dispute for the recovery of EUR250 million debt owed to the bank by a Russian high net-worth individual. The bank has recently been successful in obtaining a bankruptcy order against that individual and we are currently representing the trustees, the London office of one of the world's largest accounting and consulting organisations. We are consistently and successfully liaising with the foreign counsel of the bank as well as the trustees in bankruptcy in formulating a litigation strategy and promoting steps in Cyprus for the enforcement of the debt owed to the bank.
- Representing a group of companies that own an oil refinery in the Russian Federation caught in a shareholders' dispute for the amount of over USD200 million for alleged breaches of a shareholders' agreement, misrepresentation and fraud.

Languages. Greek, English

Professional associations/memberships

- Honourable Society of Gray's Inn.
- Fellow of the Chartered Institute of Arbitrators (CIArb).
- Honorary Secretary of CIArb Cyprus Branch.
- International Bar Association.
- Cyprus Bar Association.
- Society of Trust and Estate Practitioners (STEP).
- Association of International Tax Consultants (AITC).
- Russian Arbitration Association.
- Russian Arbitration Center.
- International Law Association (ILA).

Publications

- Co-authored *ICLG: International Arbitration - Cyprus, The Global Legal Group, 2016*.
- Co-authored *International Arbitration - Cyprus, Chambers and Partners Country Practice Guides, 2016*.

- *International Civil Fraud - Cyprus, European Lawyer Reference Series, 2014.*
- Co-authored *The Cyprus International Trust, 2012.*
- *Industry Opinion on Securities Lending and REPO agreements for Cyprus for the ICMA and for the Securities Lending and Repo Committee on Capital Adequacy (Bank of England), 2008-2016.*
- Co-authored *Product Liability - Cyprus, Global Legal Group, 2011.*
- *Asset Protection & Cyprus International Trusts – Update, 2011.*
- *Cyprus/Russia Double Tax Treaty – Update, 2010.*
- *Cyprus Tax Law, Corporate INTL, 2010.*

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Non-professional qualifications. Law Degree, Athens University, Greece, 1992

Recent transactions. Recent cases handled include the following:

- Advising a major Russian bank on the recovery of over USD1.5 billion in assets by a major Russian group through its Cypriot entities through liquidation and other out-of-court enforcement measures to ensure asset recovery for debt repayment.
- Handling over 50 cases involving the registration, recognition and enforcement of Russian judgments and arbitral awards obtained by one of the leading and largest banks of Russia against various companies and individuals and offering ongoing assistance and advice on all cross-border matters arising in this context. The value of each individual case ranges between USD10 million and USD120 million and the total aggregate amount exceeds USD3 billion. Registered 13 arbitral awards in 2015, a further 32 in 2016 and another 9 awards in 2017.
- Representing two of the four major shareholders in a dispute that arose in relation to the management of the affairs and future strategy of a quasi-partnership type Cyprus company specialising in the development of mobile and online games. Engaged to offer advice through

intense negotiations between the major shareholders concerning a potential buyout of shares in the company, which were heightened by the sudden resignation of the company's sole director and the improper convening of an extraordinary general meeting in Limassol.

Languages. Greek, English

Professional associations/memberships. Cyprus Bar Association; Listed in the Cyprus Minister of Justice and Order Register of Commercial & Civil Mediators.

Publications

- *Labour & Employment Law 2008 - Cyprus, Getting the Deal Through, 2008.*
- *Corporate guarantees – Validity and enforcement of guarantees provided by Cypriot Companies to and in favour of non-Cypriot creditors, Legal 500, 2004.*

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Professional qualifications. Admitted to the Cyprus Bar, 2008

Areas of practice. Dispute resolution; commercial litigation; insolvency and receivership; banking law; corporate law.

Non-professional qualifications. LLB Law, University of Leicester, 2006; Barrister-at-Law (Lincoln's Inn), 2007; LLM European Internal Market and Company Law, King's College London, 2009

Recent transactions. Recent cases handled include the following:

- Representing a Cyprus company in a claim for damages exceeding USD900 million against, among others, a high net-worth individual from Ukraine and his group of companies and their directors, for (among other grounds) conspiracy with unlawful means, unlawful interference and inducement of breach of contract.
- Representing high net-worth individuals and a group of companies beneficially owned by them in a multi-million dispute arising out of a joint venture for the construction of a residential complex in Moscow. A claim was brought in Cyprus against the clients seeking damages in the approximate amount of USD13 million for alleged breaches of a shareholders' agreement, fraud and misappropriation of assets held by subsidiary companies of the joint venture company.
- Representing a group of companies and their ultimate beneficial owners, who own real estate in the Russian Federation, which were caught in a shareholders' dispute for the amount of

USD16 million for alleged breaches of a shareholders' agreement, alleged fraud and alleged misappropriation of assets.

Languages. Greek (native language), English (fluent)

Professional associations/memberships. Honourable Society of Lincoln's Inn; Cyprus Bar Association; Chartered Institute of Arbitrators.

Publications

- Co-authored *The Dispute Resolution Review - Cyprus Chapter, The Law Reviews, Law Business Research*, for the years 2014-2017.
- Co-authored *Money Laundering - Cyprus, Cyprus Law Digest, 2012*.

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Professional qualifications. Admitted to the Cyprus Bar, 2014

Areas of practice. Dispute resolution and ADR; banking and finance.

Non-professional qualifications. LLB Law, University of Surrey, 2012; LLM in Corporate and Commercial Law, Queen Mary University of London, 2013

Recent transactions. Recent cases handled include the following:

- Representing a Cyprus company in a claim for damages exceeding USD900 million against, among others, a high net-worth individual from Ukraine and his group of companies and their directors, for (among other grounds) conspiracy with unlawful means, unlawful interference and inducement of breach of contract.
- Acting for one of the largest leading banks of Russia in a lengthy multi-jurisdictional dispute for the recovery of EUR250 million debt owed to the bank by a Russian high net-worth individual. The bank has recently been successful in obtaining a bankruptcy order against that individual and we are currently representing the trustees, the London office of one of the world's largest accounting and consulting organisations. We are consistently and successfully liaising with the foreign counsel of the bank as well as the trustees in bankruptcy in formulating a litigation strategy and promoting steps in Cyprus for the enforcement of the debt owed to the bank.
- Representing one of the biggest banks in Russia in a dispute arising out of a joint venture for the creation and management of a pellet production plan. The client and connected entities have

entered into a series of complex interconnected agreements providing constant credit line to the joint venture parties for the development of the plant.

Languages. Greek, English

Professional associations/memberships. Cyprus Bar Association.

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