

# GOLD

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# 1. WHAT ARE THE MAIN ISSUES THE LEGAL SECTOR IS FACING IN RELATION TO LITIGATION AND IN WHAT WAYS CAN THESE BE TACKLED? 2. WHAT IS YOUR VIEW ON THE LATEST REFORMS TO THE JUSTICE SYSTEM, INCLUDING CHANGES TO THE STRUCTURE AND FUNCTION OF THE COURTS?

## LITIGATION & THE COURTS

**ANDREW DEMETRIOU**  
DIRECTOR  
IOANNIDES DEMETRIOU LLC

1. There are two main challenges: Firstly, the issue of delays in the administration of justice in civil cases. It takes far too long (any time between three and five years) for the legal process from the filing of a claim before the court to the issue of the final judgment firstly in District Courts and then, thereafter, on appeal (which may take anything up to 5 years). There are a number of reasons for this. It is my view that, over the decades, the state has not invested sufficiently in its justice system. Justice has been a low priority and this has undermined the view that the administration of justice has in the eyes of the general population. It means almost nothing to be sued in court. A significant proportion of the population is content to be sued for unpaid debts in the knowledge that life will carry on as normal. Being a debtor attaches no stigma and almost no financial pressure. If one fights a case, one gains time and can even grind a desperate plaintiff into accepting far less than his debts, just to be paid something sooner rather than risk being paid nothing at all and even having to pay his own lawyer. Clearly, civil case procedures are antiquated and not suited to today's commercial reality. Only now, post-crisis and due to pressure

from the Troika and the EU, has Cyprus taken concrete steps and invested time and money in a meaningful attempt to bring the civil procedure rules up to date. Hitherto the amendments were piecemeal and disappointing. Secondly and equally important is the lack of a meaningful machinery for the enforcement of judicial judgments. In a large number of cases, a judgment is nothing more than a piece of paper. A pyrrhic victory for a claimant who may not even recover the costs of his lawyer and is therefore left doubly out of pocket. The enforcement process gives the whole justice system meaning and effect. Without enforcement everything else is meaningless.

2. Any and all attempts at improving this critical situation are welcome. However, changing the rules is not enough. Both judges and lawyers appearing before the courts need vastly improved facilities. A paperless court is a pipedream but some form of computerization of the court process is essential. I challenge anyone reading this to visit the District Court of Nicosia, or to try and enforce a judgment and to tell me with a straight face that changing the rules and adding new courts and judges is the magical panacea that is being promised. It all comes down to investment and the importance that the state attaches to the administration of justice. Justice has, in my view,

been a low priority. Politicians have also shown a relative disregard of claimants' rights. It is far easier, more popular (and more populist) to protect the rights of the defendant debtor than the plaintiff creditor. This tendency has discouraged the aggressive enforcement of claimants' rights and of judgments but it has had inevitable consequences and knock-on effects on the economy as a whole. The lack of enforcement of claimant's rights against debtors has been pointed out as a contributory factor in the collapse of the Cyprus banking sector and its continued weakness with a dangerously high ratio of non-performing loans. More stringent regulation of the banking sector and of the economy as a whole, together with a more effective approach to the administration of civil court justice and a more robust enforcement of claimants' and creditors' rights, will have a beneficial economic effect and will encourage both internal and foreign investment in the Cypriot economy.



**ANGELOS PAPHITIS**  
MANAGING DIRECTOR  
AGP LAW FIRM

1. The time-consuming procedures of the judicial system,

delays in the administration of justice and the lack of an effective enforcement system, constitute the biggest problems of the legal sector in Cyprus, which eventually lead to injustice for those who seek to resolve their disputes through the courts. Moreover, the existence of outdated regulations and legislation that do not correspond to today's reality are part of an insufficient judicial system. Furthermore, the main issues/problems a litigator is currently facing are the complicated and inefficient court procedures, the fact that lawyers must file and receive a huge amount of papers, and the caseload of the courts which leads to delays. E-justice will improve the filing of court documents and an electronic system to which lawyers have access to will be very helpful. The reform of the Civil Procedure Rules, which is currently under study, may introduce more efficient procedures to the judicial system. The promotion of ADR methods by lawyers and judges will reduce the caseload of the courts. A litigator also faces problems and difficulties when it comes to the execution of judgments, a deficiency which may also be resolved by reform of the Civil Procedure Rules.

2. The most notable change to the justice system involves the establishment of the Administrative Court of International Protection which will further relieve the Administrative Court – introduced

in 2015 – of cases relating to third-country nationals who apply for immunity. This new Court introduced with Law 73 (I)/2018, will deal exclusively with these cases of International Protection, whilst the Administrative Court will perform its work on administrative recourses faster and more effectively. A further reform is the recent decision to set up a Commercial Court. This will be a major step in establishing Cyprus as a commercial centre, as cases of commercial nature will be dealt in a faster and more professional way.



**GEORGE Z. GEORGIOU**  
MANAGING PARTNER  
GEORGE Z. GEORGIOU & ASSOCIATES LLC

1. The main problems are delays in the hearing of cases and everyday practical, procedural matters which create problems for lawyers in performing their duties. Some examples are the use of stamps for payment of court fees, the shorthand keeping of minutes in the various court procedures (although that is slowly changing) and inadequate conditions regarding the court buildings.

2. I am overwhelmingly in favour of the proposed changes. The world has changed and the courts have to change with it, as they are an integral part of our way of life and the bedrock of our democracy.

**LEANDROS PAPAPHILIPPOU**  
SENIOR AND  
MANAGING PARTNER  
L PAPAPHILIPPOU & CO LLC

1. The Judicial system in Cyprus is currently under an ambitious programme of reforms in order to be improved. It is well known that the Civil Procedure Rules which are currently in force in the Republic of Cyprus, subject to few amendments, are based on the Rules of the Supreme Court in England and Wales as they were in force in 1959. It goes without saying that those rules do not reflect the evolution of the modern world, especially having in mind the development of the Internet and changes in the financial sector worldwide. The Civil Procedure Rules are currently under review and it is expected that the Committee which undertook the project of reforming them will present the financial set of rules in English to the Supreme Court before 20 May, 2019. We also believe that a third tier Appeal Court will be very beneficial to the quality development of the judicial system in Cyprus. This system applies both in English and Continental judicial systems.

2. The latest reforms to the justice system and especially to the structure and function of the courts will only have positive im-



**NICOLETTA KOUVARA PANTELIDES**  
PARTNER  
CHRYSOSTOMIDES

1. The primary issues relate to costs and delays in adjudicating disputes. The judiciary requires more support and resources to deal with the ever-increasing volume of cases, as well as with the increasingly complex and specialised legal issues arising in disputes. The creation of commercial dispute courts is a highly anticipated change, as they will provide quick resolution to commercial and corporate disputes. This will give more confidence to clients choosing Cyprus

as a jurisdiction in which to establish and operate their business, since a robust legal system is vital in promoting Cyprus as a financial centre. Another important change that needs to be addressed to deal with these issues is the design of a modern technological infrastructure, as this will substantially minimise delays and costs. At the same time, it will provide the necessary means to develop e-justice in Cyprus. A different issue that needs to be addressed is the need to update and revise certain legislation to reflect – and better deal with – the new norms in society and the economy. The changes should address the evolving nature of electronic crime, the complexity of white collar crimes and the need to increase penalties and sentences as a deterrent factor. Amendments to legislation in relation to offences affecting vulnerable groups in society are also necessary in order to provide better protection and access to justice.

2. The new administrative court system specialising in adjudicating administrative recourses has been a welcome reform. The aim was to ease the caseload of the Supreme Court and thus enable it to deal with the increasing volume of appeals in civil and criminal cases, minimising the time previously needed for rulings to be delivered. The Ministry of Justice and the Cyprus Bar Association are actively seeking to introduce more changes to the justice system and their efforts are to be applauded. It is important for the Government and legislative bodies to continue their efforts and assist with the modernisation process of the justice system in Cyprus, keeping in mind that the economy and society are evolving at a fast pace.