

LexisNexis®

Dispute Resolution

Law Guide 2020

The sixth annual complimentary guide to understanding Dispute Resolution practices around the world with an Asia-Pacific focus



Firm: A.G. Paphitis & Co. LLC

Authors: Angelos G. Paphitis, Eve Karaviotou, Marios Sofroniou and Christos Kastanias

1. What is the structure of the court system in respect of civil proceedings? What is the role of the judge in civil proceedings?

Cyprus's courts are divided into two tiers of hierarchy, the Supreme Court and the subordinate courts (first instance courts).

The Supreme Court of Cyprus is the final appellate court, with jurisdiction to hear and determine appeals in civil and criminal cases. Its decisions when operating as an appeal court are final, unless overturned by the European Court of Human Rights or the European Court of Justice. It acts as an Appellate court, Admiralty court and Electoral court. Further, it has exclusive jurisdiction to issue prerogative orders (habeas corpus, mandamus, certiorari, quo warranto and prohibition). The Supreme Court of Cyprus consists of 13 members, one of whom is the President. Appeals are usually heard by a panel of three judges except in cases where, because of the importance of the case, the hearing may take place before an enlarged panel. When the Supreme Court exercises its first instance jurisdiction, the case is heard by one judge.

Appeals from decisions of a Supreme Court judge are heard by an enlarged panel of five judges (such as in cases of admiralty, electorate or prerogative orders which are heard by a Supreme Court Judge, as explained above).

The subordinate courts are inferior courts. There are 5 district courts, one for each of the five districts of Cyprus (that is, Nicosia, Limassol, Larnaca, Paphos and Famagusta) that act as the first-instance courts in criminal and civil proceedings. In their civil jurisdiction, district courts have first-instance jurisdiction to hear and decide any action whose cause arose partly or wholly in the area where

the court is situated, or any action in which the defendant(s) resides or works in the district where the court is situated. District courts are made up of President District Judges with jurisdiction to hear claims over €500,000, Senior District Judges with jurisdiction to hear claims between €100,000 to €500,000 and District Judges with jurisdiction to hear claims below €100,000. First instance proceedings are determined by a single judge.

A district court may hear any matter that does not come under the jurisdiction of one of the courts of special jurisdiction such as the:

- Family Courts;
- Rent Control Courts;
- Industrial Disputes Courts;
- Military Courts;
- Administrative Court; and
- International Protection Administrative Court.

Similar to the English legal system, the trial system in Cyprus is adversarial, with the judge playing a relatively passive role, deciding on issues of fact and law after hearing evidence and submissions from the competing parties. The claimant in a civil court action has the burden of proof and the usual standard test of proof is on the balance of probabilities. All civil cases before district courts are tried by a single judge sitting without a jury.

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

About Author



Angelos G. Paphitis

Managing Partner, A.G. Paphitis & Co. LLC

Email: angelos.paphitis@agplaw.com

Angelos is the Managing Partner of A.G. Paphitis & Co | AGP Law Firm as well as the AGP Group of Fiduciary Services. He is a barrister at law (Gray's Inn, London, called 2001) and a member of the Cyprus Bar Association (called 2004). Angelos is described by clients as "Best lawyer in Cyprus", "Very experienced, well-educated and highly-skilled professional", "Brilliant legal knowledge", "highly experienced and proactive lawyer, able to provide services that are practical, commercial-minded and tailored to clients' needs." Angelos is ranked in and recommended by Legal500, Chambers & Partners, IFLR1000, Best Lawyers and others.

Angelos is heading the AGP Commercial & Corporate Practice; he has many years of experience in corporate and commercial areas of the law, both in consulting and in representing clients in complex and

high-profile disputes in District and Supreme Courts, as well as on International Arbitration Centres. He is a registered Trust and Estate practitioner, member of the Society of Trust and Estate Practitioners (STEP) holder of TEP title, and an authorised Insolvency Practitioner member of the Association of Insolvency Practitioners of Cyprus since 2015.

Additionally, Angelos is also a lead member of the AGP Financial Regulation & Advisory Practice, representing both local and international Investment Firms and Banking Institutions. He further handles matters involving local and international tax, trusts & trustee matters, corporate structuring, finance & banking law, real estate and foreign investments in Cyprus. He frequently acts for high-net-worth and ultra-high-net-worth individuals, entrepreneurs and companies.

2. Are court hearings open to the public? Are court documents accessible by the public?

Court hearings are open to the public except in special cases such as the protection of minors where the hearing will take place "behind closed doors" ("in camera"). However, the court documents are accessible only by the parties of the proceedings within the framework of the particular procedure and always in the presence of a court official. Any other interested party could proceed to a general search or inspection of the court file or obtain copies of documents

in a court file or inspect the same, following an application to the court explaining in detail the reasons for his application. The public can access free the judgements of the Cypriot courts – both interim and final, online.

3. Do all lawyers have the right to appear in court and conduct proceedings on behalf of their client? If not, how is the legal profession structured?

Under the Advocates Law (Cap. 2) a person can be registered to practice 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 recognised university or institution by the Legal Board.
- Has completed a pupillage of at least 12 months at the law office of an advocate who has exercised the profession for a minimum of 5 years.
- Has successfully passed the exam of the Cyprus Bar Association and is admitted to the Bar of Cyprus.

Since there is no distinction of the profession (such as in the UK for barristers and solicitors) in Cyprus, a person admitted to the Cyprus Bar is deemed to be duly authorized 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 Cyprus Bar Association.

4. What are the limitation periods for commencing civil claims?

The limitation period for commencing civil claims before a court are prescribed in the Limitation of Actions Law of 2012 (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 has not been suspended further. Under Law 66(I)/2012 the limitation period of a claim commences from the date the cause of action accrued (see section 3, Law 66(I)/2012). Generally, Law 66(I)/2012 provides for a general time limit of 10 years (see section 4, Law 66(I)/2012), unless otherwise provided in the Law of 2012 or any other law. The limitation period is different depending on the nature of the cause of action.

For instance:

- Torts: six (6) years limitation period from the date when the cause of action accrued or from the date of knowledge of the injured party.
- For torts related to damages for negligence, nuisance and breach of duty, three (3) years limitation period from the date of the cause of action or from the date of knowledge of the injured party.
- For torts that relate to claims for defamation or malicious falsehood, one (1) year from the cause of action i.e. date of publication
- Mortgage, pledge: 12 years limitation period from the date when the cause of action accrued.
- Common contract claims: 6 years from the cause of action.
- For claims brought in relation to a contract or quasi-contract for an agreed or reasonable fee for services rendered by a lawyer, doctor, dentist, architect, civil engineer, contractor or any other independent professional, three (3) years from the cause of action.
- For claims brought in relation to a bill of exchange, promissory note or cheque, or other contract debt / loan, six (6) years from the cause of action
- Claims in respect of the deceased's estate or any portion thereof, cannot be brought after eight (8) years from the day of death.
- Claims in connection with a judgment cannot be brought if fifteen (15) years have elapsed since the final judgment.

Notwithstanding the provisions of any other article of the Limitation of Actions Law, the court may extend the time limit provided in the provisions of the Law for a period of up to two (2) years if it deems it fair and reasonable in the circumstances. An application should be submitted (originating summons) before the submission of the Writ of Summons or by an interlocutory application after submission of the Writ of Summons pleading the limitation period as stated in Article 21.

About Author



Eve Karaviotou

Partner & Head of Litigation, A.G. Paphitis & Co. LLC

Email: eve.karaviotou@agplaw.com

Eve is a Partner at A.G. Paphitis & Co | AGP Law Firm and is heading the Litigation Department. She is a barrister at law (Gray's Inn, London, called 2001) and a member of the Cyprus Bar Association (called 2001) During her professional experience and prior to joining AGP, Eve has been a Senior Associate and a Litigation Partner at well-established Law Firms in Nicosia, Cyprus.

Eve has extensive experience in all areas of dispute resolution, litigation and arbitration, with an impressive success track record before District and Supreme courts as well as before International Arbitration Centres. She specialises in complex and cross-jurisdictional corporate and commercial claims, particularly those involving shareholders disputes, lengthy multi-jurisdictional debt recoveries and breach of contracts, corporate frauds, negligence, unjust enrichment, and cross

border disputes arising out of joint ventures. Eve also has extensive experience in matters ancillary to litigation and arbitration, including obtaining and opposing freezing injunctions in support of dispute resolutions, enforcing judgments and arbitration awards, obtaining and defending interim petitions of general civil, corporate and commercial disputes, obtaining final interim judgments and awards on an expedited basis, and challenging enforcement of defective awards.

She is a reliable and determined advocate to whatever she is dealing with. She is very adaptive, cooperative, effective, well-organized team leader and committed to her work. Due to her experience and background Eve can handle any case however difficult or complicated it might be.

Eve is recommended by Legal 500.

5. Are there any pre-action procedures with which the parties must comply before commencing proceedings?

There are no specific rules in relation to any pre-action procedures and neither a pre-action procedure exists that the Cypriot courts would expect the parties to follow. However, the parties may exchange letters before filing an action to solve the issue without taking legal action, except in the case where the plaintiff applies for an ex-parte injunction.

6. What is the typical civil procedure and timetable for the steps necessary to bring the matter to trial?

Civil proceedings are initiated in all Cypriot courts when a writ of summons or an originating summons is filed and sealed in court, depending on the nature of the claim. A writ of summons may be generally endorsed containing only the relief sought, or specially endorsed containing the statement of claim and the relief sought. Where the writ of summons is generally endorsed the 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.

The writ of summons must be served within 12 months of its filing. If the writ is not served within these 12 months, then the time can be extended for an additional 6 months if the claimant obtains permission from the court. The deemed date of service is the date on which the private bailiff served the writ of summons on the person being served.

If personal service is not feasible, an application can be made to the court for an order for substituted or other service (such as service through email, placing a notice on the board of the court, through a colleague or roommate, or even through social media such as Facebook etc).

On service of the writ of summons, the defendant has 10 days to file an appearance and subsequently 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 judgement.

In the case of a specially endorsed writ of summons, the defendant must file and deliver a defence or a defence and counterclaim within 14 days from the filing of an appearance. In the case of a generally endorsed writ of summons, the defence or the defence and counterclaim must be filed and delivered within 14 days from the filing of the statement of claim. The claimant may file a reply to the defendant's defence within 7 days of delivery of the defence, or a reply to the defence and a defence to the defendant's counterclaim within 14 days from the delivery of the defendant's defence and counterclaim.

Once the pleadings are completed, the next step is mainly preparatory to the trial. For (i) claims under €10,000 that were filed on

or after 1 January 2015, and (ii) claims exceeding €10,000 that were filed on or after 1 January 2016, a plaintiff is required to issue a summons for directions accompanied by a specific form indicating the directions sought from the court on matters such as:

- The amendment of pleadings;
- The discovery and inspection of pre-trial documents;
- The provision of better and further particulars; and the preparation of a list of admitted facts.

The abovementioned summons for directions and specific form must be filed by the plaintiff within 30 days from the closure of pleading and set for hearing before the court after a period of at least 90 days. Once service of the summons for directions has been effected, a defendant must, in turn, file the specific form with the court. At the hearing of the summons for directions, the court gives directions on the basis of the specific forms filed by the parties. In accordance with Order 30 of the Civil Procedure Rules (CPR), failure of the plaintiff to issue a summons for directions may lead to the dismissal of the proceedings by the court. For claims exceeding the amount of €3,000, each party is obliged at the pretrial stage to file a list of witnesses along with a summary of their testimony. Claims under €3,000 are subject to a fast-track procedure as the hearing is based on written evidence, unless otherwise ordered by the Court (Order 30 of the CPR).

Claims made before the aforesaid dates are treated differently and no obligation exists for the filing of a list of witnesses and a summary of their testimony.

There is a wide range of other applications that can be made before the hearing of the trial commences. Remarkably, applications for amendment can be allowed even after the hearing commences, but almost any other application must be filed before the main trial hearing.

The main trial allows each party to present their witnesses, who may be cross-examined by the other side. Once all witnesses complete their

About Author



Marios Sofroniou

Senior Associate, A.G. Paphitis & Co. LLC

Email: marios.sofroniou@agplaw.com

Marios is a Senior Associate, member of the AGP Law firm Dispute Resolution and Litigation Department. During his professional experience, he has been a senior member of various prestigious law firms in Cyprus, as well as an in-house legal advisor for an international corporate services firm.

Marios graduated in law (first class) from University of Wolverhampton, UK, and was further awarded an LL.M in International Banking and Finance Law from the University College London (UCL), UK. He was admitted to the Cyprus Bar in 2011.

His experience includes cases involving breach of contract, lender liability and claims by and against mortgage lenders, banking, restructuring, insolvency and liquidation matters.

He is a confident person, optimistic and self-aware of the circumstances when it comes to consulting and court representation. He is a committed lawyer who welcomes new and potentially difficult assignments. He is an active litigator dealing with a wide range of general civil, banking, financial and commercial disputes, with focus in matters related to banking and finance law. Marios advises and represents a variety of clients before the District and Supreme courts daily regarding corporate, commercial or banking matters. Furthermore, he is well experienced in consulting clients during the negotiation and the drafting of various types of legal documents.

testimony, the parties will present their final submissions / closing speech to the court in support of their arguments. On the conclusion of the hearing, and the advocates' final addresses, the court usually reserves its judgement, which is issued the latest, 6 months from the date of the reservation.

7. Are parties required to disclose relevant documents to other parties and the court?

Pursuant to the Civil Procedure Rules (CPR), any party may apply to the court for an order directing any other party to any cause or matter to make discovery on oath of the

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

documents that the party which seeks to rely on them on trial is a continuing one and as such, once a document that has not been disclosed to the other party has come to the attention of the first party, he can disclose it through an affidavit immediately without a leave of the court.

8. Are there rules regarding privileged documents or any other rules which allow parties to not disclose certain documents?

As a rule, a document covered by privilege cannot be used as evidence and their admissibility can be refused, on any one of the following grounds:

- Litigation privilege;
- Legal professional privilege
- Without prejudice communications;
- Self-incrimination privilege;
- Public interest immunity; and
- Confidential nature.

9. Do parties exchange written evidence prior to trial or is evidence given orally? Do opponents have the right to cross-examine a witness?

Parties do not normally exchange written evidence from witnesses prior to trial, except for situations where it is their intention to adopt written statements in the course of the examination of the witness(es) they have called upon to give oral evidence and the court has ordered that such statements are exchanged between the parties prior to the hearing. The opponents have the right to cross-examine the witnesses based on the content of their chief examination. Witnesses giving evidence on the merits may be cross examined during the hearing of the case. With regards to expert witnesses, their statements are usually exchanged prior to trial, as their cross-examination is based on the contents of their statements.

It should be indicated that 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 that witness making the sworn affidavit in

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

In cases relating to small claims, i.e. under €3,000, the court will give directions for the exchange of full evidence in writing, so the fast trial procedure provided by the CPR applies, as mentioned in question 6 above.

It should also be emphasised that the new provisions of the CPR provide for strict deadlines regarding the duration of examination, cross-examination and re-examination of witnesses.

10. What are the rules that govern the appointment of experts? Is there a code of conduct for experts?

Parties may present expert witnesses to support their claims. The opinion of an expert witness, based on facts that are proved by evidence that can be admitted by the court, is generally admissible when an issue in dispute is of a technical, scientific or professional nature.

Generally, the role of experts is to give their professional opinion and evidence on matters that have been raised and fall within their area of expertise. An expert witness has the duty to provide the court with all the necessary technical or professional 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 (*Koinotiko Simvoulio Omodous v Annas Konnari* (2011) 1 AAD 2298). The facts on which the expert opinion is based must be proved independently, unless they are within his/her own knowledge (*Ramsdale v Ramsdale* (1945) 173 L.T. 393).

Experts' reports may be exchanged before the trial. During the trial the expert may appear before the court to give evidence and be cross-examined on the contents of their report. The fees of an expert are paid by the party who requested the service.

About Author



Christos Kastanias

Associate, A.G. Paphitis & Co. LLC

Email: christos.kastanias@agplaw.com

Christos is an Associate of the AGP Law firm, practicing civil, commercial and finance law. He graduated law from the Manchester Metropolitan University (UK) and further completed the Bar Professional Training Course (BPTC) from the same university, he was admitted to the Cyprus Bar in 2014.

Christos is a very competent, proactive and self-aware of the circumstances when it comes to legal consulting. He is a devoted hard-working lawyer which always welcomes new and potentially difficult assignments and cases.

Christos' main areas of practice are civil, commercial, financial and cybercrime disputes. He further specializes in CySEC and AIF regulatory compliance and finance law.

11. What interim remedies are available before trial?

Cypriot courts have extensive jurisdiction to issue interim injunctions of a prohibitory, and mandatory nature. They also have the jurisdiction to issue orders on *quia timet* basis where the other side have not yet committed a civil wrong but have threatened to do so in the future. Examples of injunctions that can be issued by Cyprus Courts include freezing injunctions which may also comprise of ancillary disclosure orders such as gagging orders and tracing orders, Banker's Trust, search orders, disclosure and inspections orders such as Norwich Pharmacal order and interim payment orders, as well as Receivership and Anton Piller orders. Pursuant to the Courts of Justice Law (Law 14/1960) s 32(1), it empowers the courts to grant injunctions, which may be

interlocutory, perpetual or mandatory, in all cases in which it appears to the court just or convenient to do so.

An application for interlocutory relief is generally made by summons. However, in particularly urgent circumstances, an application for interlocutory relief can be made *ex parte*, i.e, without notice to the person against whom relief is sought. To obtain an injunction, the applicant must be able to establish all the following to the court:

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

The general rule is that a judgement/order/injunction issued by a lower court can be

appealed by any party to the proceedings. An appeal against an interim injunction can be filed before the Supreme Court of Cyprus.

12. What remedies are available at trial?

The Cypriot Courts have wide powers to award remedies to a successful plaintiff depending on the cause of action and objectives of the litigation. The main remedies awarded by the Cypriot courts are the following:

- General and special damages to compensate for losses incurred;
- restitutionary damages in equity, to prevent unjust enrichment;
- declarations setting out the rights or legal position of the parties;
- orders for specific performance;
- injunctive relief;
- appointment of a receiver and manager; and punitive or exemplary damages to punish the behaviour of the defendant in certain circumstances.

13. What are the principal methods of enforcement of judgment?

Any person against whom a judgement is given must comply with and fully satisfy it. If a party fails to obey a judgement made against him, measures can be taken for the execution and enforcement of the judgement to enable the successful party to obtain the remedy to which it is entitled.

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 (requiring a third party who owes money to the judgement debtor to pay the money to the judgement creditor).

- An order to the judgement debtor to make payments over the debt on a monthly instalment. 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 judgement creditor.
- A writ of delivery, ordering movable property to be delivered to the judgement creditor.
- Bankruptcy or liquidation proceedings against the judgment debtor.

14. Are successful parties generally awarded their costs? How are costs calculated?

As a general rule, courts have power to award costs, which are normally assessed on the basis of the applicable court scales (as described in question 1 above) depending on the value of the dispute. 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 considered.

Cyprus courts have wide discretion to determine the amount of costs to be awarded to the winning party, which include Value Added Tax (VAT), disbursements and interest. 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, except in certain cases, where 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 irrespective 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 considered. This effectively means that the costs 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.

It should also be noted that where the defendant is concerned that in the event of winning, the claimant will be unable to meet any order for costs, a plaintiff ordinarily resident outside Cyprus may at any stage of the action be ordered to provide security for costs.

15. What are the avenues of appeal for a final judgment? On what grounds can a party appeal?

Appeals for any interlocutory orders should be brought within 14 days and all other appeals should be brought within 42 days. No appeal from any interlocutory order, or from an order, whether final or interlocutory, in any matter not being an action, shall be brought after 14 days, and no other appeal shall be brought after 42 days, unless the court or judge at the time of making the order or at any time subsequently, or the Supreme Court, increase the time. The said respective periods are calculated from the time that the judgement or order becomes binding on the intending appellant, or in the case of the refusal of an application, from the date of such refusal.

The grounds where the parties may appeal are, firstly against the decisions of law and, secondly against findings of fact in the event of insufficient evidence or in the event of a wrong decision. Judgements of the Administrative Court can be appealed on points of law only. 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. Further evidence can be received either by oral examination or by affidavit or deposition taken before an examiner or commissioner (Order 35, Rule 8 of CPR).

16. Are contingency or conditional fee arrangements permitted between lawyers and clients? Is third-party funding permitted?

Funding of litigation proceeding is normally arranged for by the parties. Where there is a specific written agreement (engagement letter)

between the lawyer and his or her client the costs of a case are not issued by the taxation of the registrar. A lawyer may negotiate his or her legal fees for litigation proceedings and can reach any special arrangement or engagement freely with his or her client.

Most lawyers have a charging rate which is uniformly applied to all clients. That rate will be higher for a senior lawyer than for a lawyer who has recently commenced practice.

The Cypriot courts have not yet considered the issue of conditional or contingency fee arrangements; however, it is assumed that such arrangements are not permissible.

Whether a party will initiate proceedings using third-party funding is a private matter between the party and the third party, but not the lawyer.

17. May litigants bring class actions? If so, what rules apply to class actions?

Class actions are not available in Cyprus. However, where there are numerous persons having the same interest in one cause or matter, one or more of such persons may be authorized by the court to sue or defend on behalf, or for the benefit of all persons so interested. Alternatively, all persons with the same cause of action may be added as Claimants to an action against a Defendant (such as in case of multiple victims of financial crime against a broker or a financial institution, etc.).

Further, multiple actions pending before the same court may be consolidated if they involve a common question of law or fact bearing sufficient importance in proportion to the rest of the matters involved in the actions to render consolidation desirable. If prospective plaintiffs aim at bringing separate actions with a view to consolidate the same, they should consider in advance whether the conditions for consolidation may be satisfied. In such cases, strategic planning is particularly important.

18. What are the procedures for the recognition and enforcement of foreign judgments?

In order to maintain economic relations between persons and companies from different countries and to secure their business interests, it is important to ensure the recognition and enforcement of foreign judgments on the territory of foreign countries.

In general, the judgment rendered by a court is binding upon the parties of the proceedings within the territory of a particular country. The issue of recognition and enforcement of foreign judgments is regulated by the legislation of each particular country and international treaties to which such country is a party. The recognition of a foreign judgment serves as confirmation of respective foreign civil rights and obligations in Cyprus and is a prerequisite for enforcing the judgment, which involves additional requirements.

In brief, judgements from the courts of countries of the European Union (EU) can be recognised and enforced under the different specific EU Regulations on the matter, the main Regulation now being the Recast Brussels Regulation (EC Regulation 1215/12 on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters). Under the Recast Brussels Regulation, a judgement given in an EU Member State which is enforceable in that State, is enforceable in Cyprus without any declaration of enforceability being required. The predecessor of the Recast Brussels Regulation, i.e. Regulation (EC) 44/2001 continues to apply to judgements given in legal proceedings instituted, to authentic instruments formally drawn up or registered and to court settlements approved or concluded before 10 January 2015. As far as the procedure of recognition and enforcement is concerned, the filing of an application with the Cypriot court of jurisdiction in accordance with the relevant local laws will suffice.

Cyprus is also a signatory to multilateral and bilateral agreements that regulate the recognition and enforcement of judgements obtained in non-EU member states including,

for example, Russia, Ukraine and China. Any other foreign judgment (such as a British Virgin Islands judgements) may be recognised in Cyprus by bringing a fresh common action with a cause of action the foreign judgement itself.

Once a judgement is recognised and registered in Cyprus, it is treated as a domestic judgement and all means of enforcement are available as described in question 13 above.

19. What are the main forms of alternative dispute resolution? Which are the main alternative dispute resolution organisations in your jurisdiction?

There are three main categories of Alternative Dispute Resolution (ADR). These are Mediation, Conciliation and Arbitration. **Mediation** is considered informal method of ADR where the parties refer their dispute to an independent third party who will try and mediate the issues with both sides to help them come to an amicable understanding and settle the case. **Conciliation** is very similar to Mediation in process and formality but the third party can issue a non-binding opinion regarding the case which may lead to a settlement. **Arbitration** is the most formal out of the three and it requires the prior agreement of the parties to proceed to arbitration in an effort to avoid litigation. Domestic arbitration proceedings in Cyprus are governed by the Arbitration Law of 1944, Cap. 4 and international arbitration proceedings are governed by the International Commercial Arbitration Law 101/1987 (ICA Law) which is a translation into Greek of the UNCITRAL Model Law. Cyprus is a party to the New York Convention which has been ratified by the Ratification Law 84/1979. As a signatory to the New York Convention Cyprus has made a specific reservation of reciprocity, meaning that Cyprus Courts recognize arbitral awards which are issued in a state which is also a signatory to the New York Convention. The most prominent arbitral institutions in Cyprus are the "Cyprus Arbitration & Mediation Centre" and the "Cyprus Eurasia Dispute Resolution and Arbitration Centre" (CEDRAC), however, their use is currently quite limited.

Where there is an express agreement to use Arbitration and this is not upheld, and court proceedings are initiated, the court will stay the proceedings and compel the parties to use Arbitration. Arbitration in Cyprus is usually used in construction disputes, as well as in banking disputes; lately international commercial arbitration is also more frequently being promoted.

20. Are there any proposals for reform to the laws and regulations governing dispute resolution currently being considered?

There is currently a major review of the Civil Procedure Rules (CPR) aiming to modernise the Cyprus legal system and assist in achieving the quickest adjudication of cases before the courts. In 2015, Orders 30 and 25 of the CPR were amended with a view to expediting the case management stage of the proceedings and limiting the current delay in adjudicating civil cases. The amended provisions of the said Orders apply regarding all actions filed from 1 January 2016 (see question 6).

A team of legal international experts specialising in EU law appointed by the Supreme Court visited Cyprus to evaluate an ongoing program for reform in the Cyprus judicial system. One of the major reforms, which is currently a work in progress, is the establishment of a Commercial Court with jurisdiction to hear commercial and corporate disputes of substantial value. The Commercial Court is expected to take up a large volume of commercial cases with cross-border characteristics, within the framework of which applications for interim orders are usually pursued. This will enhance the attractiveness of Cyprus as an international centre for dispute resolution, as complex commercial litigation issues will be dealt with speedily and efficiently through a new streamlined and specialised court. Further, extensive reforms to the CPR are currently under consideration and negotiation between the relevant stakeholders.

In an effort to expedite the administration of justice, on 17 July 2019, the Supreme Judicial Council announced their intention to appoint 23 District Judges, 5 senior District Judges

and the appointment of 7 Presidents of the District Court.

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

21. Are there any features regarding dispute resolution in your jurisdiction or in Asia that you wish to highlight?

Depending on the circumstances of each case, a party litigating in Cyprus may take advantage of the legal certainty and predictability offered by common law systems and equity, as well as key simplified procedures and mechanisms imposed under the European regime relating, for example, to the recognition and enforcement of judgements, the obtaining of witness evidence directly etc.

Based on English Common Law principles, Cyprus' legal system is widely recognised as business-friendly and effective as well as being reliable, backed up with low costs when litigating in Cyprus as compared with other European or Asian jurisdictions. Being a Common Law jurisdiction and having codified important areas of substantive law, Cyprus applies English Common Law principles – with English cases being frequently used as guidelines and often being adopted – where there is no Cypriot legislation or precedent in force.

About the Authors:

Angelos G. Paphitis

Managing Partner, A.G. Paphitis & Co. LLC

E: angelos.paphitis@agplaw.com

Eve Karaviotou

Partner & Head of Litigation, A.G. Paphitis & Co. LLC

E: eve.karaviotou@agplaw.com

Marios Sofroniou

Senior Associate, A.G. Paphitis & Co. LLC

E: marios.sofroniou@agplaw.com

Christos Kastanias

Associate, A.G. Paphitis & Co. LLC

E: christos.kastanias@agplaw.com

About the firm:

A.G. Paphitis & Co. LLC

W: <https://www.agplaw.com>

T: +357 25731000

F: +357 25761004

Dispute Resolution Law Guide 2020

from LexisNexis®

The LexisNexis® Dispute Resolution Law Guide 2020 provides you with a detailed review and analysis of the current legislation and regulations that govern dispute resolution practices around the world with a focus on the Asia-Pacific region.

The guide helps you understand dispute resolution practices in unfamiliar jurisdictions through Q&A style chapters that can be easily compared with other jurisdictions.



lexisnexis.com.hk

LexisNexis, Lexis and the Knowledge Burst logo are registered trademarks of RELX Inc., used under licence. Copyright 2019 LexisNexis, a division of RELX (Greater China) Limited. All rights reserved.

