

# Cyprus

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## I. LITIGATION

### 1 Preliminaries

#### 1.1 What type of legal system has Cyprus got? Are there any rules that govern civil procedure in Cyprus?

Cyprus was a British colony until 16 August 1960 and its legal system is heavily influenced by English law and the English legal system. Except in the areas of administrative law and constitutional law, it follows English case law, mostly as a guide, but also under certain circumstances, as binding law.

Civil procedure is governed by the Courts of Justice Law 14 of 1960, the Civil Procedure Law, Cap 6, and the Civil Procedure Rules.

#### 1.2 How is the civil court system in Cyprus structured? What are the various levels of appeal and are there any specialist courts?

The Supreme Court of Cyprus is the final appellate court and has jurisdiction to hear and determine appeals in civil and criminal cases from the other courts. It has exclusive jurisdiction to issue the prerogative orders of *certiorari*, *habeas corpus*, *mandamus*, prohibition and *quo warranto*. It is the Supreme Constitutional Court with power to adjudicate all matters relating to the constitutionality of legislation. It also has jurisdiction to review the decisions of state bodies and to revise them if appropriate and jurisdiction to adjudicate all admiralty matters both at first instance and on appeal.

The five district courts, one for each geographic district (Nicosia, Limassol, Larnaca, Paphos, and Famagusta) 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 in which a defendant resides or works that does not fall within the jurisdiction of the specialist courts listed below, as well as criminal offences punishable with a term of imprisonment not exceeding five years.

The family courts have jurisdiction to hear and try all family law matters, including divorces, custody issues, disputes relating to matrimonial property and spousal support payments.

The labour courts deal with all matters relating to employment relations, industrial relations, employee health, safety and welfare, termination of employment, redundancy and the like.

The rent control courts have jurisdiction to hear and adjudicate any issue or dispute relating to rented premises situated in their district.

The assize courts deal with criminal offences and may impose any sentence prescribed by law.

The Military Court exercises criminal jurisdiction over the members of the National Guard in accordance with the Military Criminal Code and Procedure.

#### 1.3 What are the main stages in civil proceedings in Cyprus? What is their underlying timeframe?

Civil proceedings start with the issue or filing of a writ of summons or an originating summons, stating the nature of the claim and the relief sought. The summons is served on the defendant, which must enter an appearance if it intends to resist the claim. The defendant must subsequently file a detailed defence or a defence and counterclaim within specified time limits. Following the exchange of the pleadings and the determination of any interrogatory procedures, the hearing of the main action will commence.

On the completion of the hearing, the court usually reserves judgment.

Courts in Cyprus are thorough and punctilious, and as a result, proceedings typically take several years to resolve. A party who is determined to obstruct the proceedings can add even more delays.

#### 1.4 What is Cyprus's local judiciary's approach to exclusive jurisdiction clauses?

If the parties have expressly agreed that disputes arising from their contract will be referred to arbitration or to a foreign tribunal, or be determined according to the law of a foreign country, the court generally insists that the parties honour their bargain unless compelling reasons are put forward to refute this presumption.

If the parties are domiciled in countries that are bound by it, Regulation (EC) 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels Regulation) gives the Cyprus courts exclusive jurisdiction over the following:

- An action *in rem* (that is, relating to a right that is enforceable against the asset itself) against:
  - immovable property (including ships) situated in Cyprus; or
  - tenancies of immovable property situated in Cyprus of greater than six months' duration.
- Actions relating to the validity of the constitution or dissolution of Cyprus companies.
- The validity of entries in the public registries of Cyprus, except for the validity of European patents in relation to which the courts in all Member States have jurisdiction.

- Proceedings relating to the enforcement of judgments if the Cyprus courts are the forum where the judgment has been, or is to be, enforced.

### 1.5 What are the costs of civil court proceedings in Cyprus? Who bears these costs?

The award of costs is at the sole discretion of the court. Generally, the costs of the litigation are awarded to the successful party. The court may direct whether the costs are to be assessed or taxed by the registrar of the court in which the proceedings have taken place.

Pre-trial offers to settle do not have any effect on cost orders unless they are in the form of payment to the court.

The Supreme Court has a scale of fees related to the size of the action, the nature of the case and the time involved. If there is an agreement between the lawyer and the client regarding fees then, provided it is deposited with the Supreme Court, the scale does not apply. Hourly rates and fixed fees are both common, especially in larger commercial. Fee agreements must be in writing. Contingency fees are not permitted.

### 1.6 Are there any particular rules about funding litigation in Cyprus? Are contingency fee/conditional fee arrangements permissible? What are the rules pertaining to security for costs?

Insofar as the Cyprus courts are concerned, funding of litigation is provided by the parties to the legal proceedings and any court orders relating to costs will be made for or against a party to the action (except for executors, administrators or trustees who have not unreasonably instituted or resisted legal proceedings, where the court has a discretion to order their costs to be paid out of a particular estate or fund). Insurance for litigation costs is not available in Cyprus and contingency fees are not permitted.

Depending on the nature and value of the proceedings, the court may (following an application or otherwise) require a claimant to provide security for costs. Two conditions must be satisfied to obtain security for costs:

- The claimant must be domiciled outside the EU.
- It must be shown that the claimant has insufficient assets within the jurisdiction to satisfy any order that may be made against him to pay the defendant's costs.

The court has an inherent jurisdiction to grant or refuse to grant an order for security for costs. The same conditions must be satisfied in respect of a foreign defendant's counterclaim.

If an order for security for costs is not satisfied within the time directed by the court, the action may be dismissed. The amount of security that may be ordered is the amount of the costs expected to be incurred defending the action.

### 1.7 Are there any constraints to assigning a claim or cause of action in Cyprus? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

There is nothing to stop a claim or cause of action being assigned, subject to a valid assignment agreement being executed. In addition, there is nothing prohibiting a non-party to the proceedings from financing the proceedings.

## 2 Before Commencing Proceedings

### 2.1 Is there any particular formality with which you must comply before you initiate proceedings?

There is no particular formality that must be complied with before proceedings are issued. There are, however, certain standard forms that need to be filed with the court.

### 2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

Law 66(I) of 2012 provides that the limitation period in respect of a claim commences from the day of completion of the basis of the claim (defined as all events that give rise to an actionable right concerning a claim) and stipulates that unless otherwise provided in the Law or any other law, no proceedings may be issued after ten years have elapsed from that date.

#### *Secured loans*

For loans secured by a mortgage, charge or pledge, the limitation period is 12 years.

#### *Civil wrongs*

The general limitation period for civil wrongs is six years. The limitation period for claims for damages for negligence, nuisance or breach of a statutory duty is three years. The court has discretion to disapply the limitation provisions in the case of civil wrongs leading to bodily harm or death. The court cannot exercise its discretion to disapply the limitation period once two years have elapsed from the expiry of the prescribed limitation period. The limitation period is one year in the case of proceedings for defamation or malicious falsehood.

#### *Contracts*

There is a general limitation period of six years for actions based on contractual claims. However, for proceedings related to a contract or to a quasi-contract in relation to an agreed or reasonable remuneration of a lawyer, a doctor, a dentist, an architect, a civil engineer, a contractor or other independent professional, the limitation period is three years.

For loans with no set repayment date and which do not require advance notice as a condition of repayment of the debt, the limitation period commences on the date of service of written notice to the borrower to repay the debt, from or on behalf of the lender (or where there are co-lenders, from or on behalf of one of them).

#### *Succession*

No action can be commenced questioning the validity of a will, or in relation to the estate of a deceased or any portion or part thereof or bequest, after eight years from the date of death. In the event that the claimant was absent from Cyprus, the limitation period will not be deemed to have been completed unless one year has elapsed from the time that the claimant returned to Cyprus or became aware of the death (or with reasonable diligence could have become aware of the death).

#### *Specific exceptions*

The Law provides that the period of limitation will not commence or, if it has commenced, will be suspended, in respect of the following:

- Between spouses during their marriage, even though the marriage is later annulled.

- Between parents and children while the children are minors.
- Between trustees and trust beneficiaries while the trust beneficiaries are minors or, when the beneficiary has not yet been born, until the beneficiary is born and reaches adulthood.
- Between executors of a will or administrators of the property of the deceased and heirs and legatees of the deceased while the heirs and legatees are minors.
- Between cohabiting partners.

### 3 Commencing Proceedings

#### 3.1 How are civil proceedings commenced (issued and served) in Cyprus? What various means of service are there? What is the deemed date of service? How is service effected outside Cyprus? Is there a preferred method of service of foreign proceedings in Cyprus?

Civil proceedings start with the issue or filing of a writ of summons or an originating summons, stating the nature of the claim and the relief sought.

Each defendant named on the writ of summons must be served, in the manner provided by the Civil Procedure Rules (*Order 5*), with an official copy of the writ, normally by giving a copy of the writ to the person to be served. Service is normally undertaken by private process servers and the date of service is the date which the process server states in his affidavit as being the date on which the recipient received the documents, or the day that the document was received by the recipient if it was served by any other means (for example, by post).

Application may be made to the court for an order for either substituted or other service, or service by letter, public advertisement or other means of bringing the matter to the attention of the defendant, provided the court is satisfied that it is not possible to effect service in the ordinary manner. In this case, the order will stipulate the deemed date of service.

In relation to the service of judicial documents within the EU, Regulation (EC) 1348/2000 on the service in the Member States of judicial and extra-judicial documents in civil and commercial matters applies and the modes of service may vary depending on each Member State.

Both writs of summons and originating summonses must be served on the defendant within 12 months of issue or renewed by an application to the court before the allowed time expires. The service of the writ or other originating process not only notifies the defendant of the action brought against him or her, but also establishes the jurisdiction of the Cyprus courts over the defendant.

If the defendant resides outside the jurisdiction of the court, the leave of the court must be obtained before a writ or a notice of a writ of summons or other originating process can be served on him or her. The Civil Procedure Rules set out the circumstances in which service of a writ of summons or notice of a writ of summons outside the jurisdiction will be allowed by the court.

An order allowing service of a writ of summons or notice of a writ of summons outside the jurisdiction may direct that the writ or notice should be served by registered mail, by hand through a local bailiff or lawyer or by the method prescribed by any bilateral agreement that exists between Cyprus and the country where the defendant resides (e.g., through diplomatic channels). In this case, the deemed day of service is the day that a bailiff effected service or the day that the document was received by the recipient if it was served by any other means.

#### 3.2 Are any pre-action interim remedies available in Cyprus? How do you apply for them? What are the main criteria for obtaining these?

No interim remedies are available before the filing of the main proceedings.

#### 3.3 What are the main elements of the claimant's pleadings?

A writ of summons may be either specially endorsed (that is, it contains the full statement of claim) or generally endorsed (that is, it contains only the relief and the remedies sought). A claimant who has served a generally endorsed writ must file and deliver to the defendant a statement of claim, containing the relief or remedy claimed, within ten days after the defendant files an appearance to the writ.

Certain laws require that an action be initiated by an originating summons - for example, the Companies Law requires applications for the winding-up of companies to begin with an originating summons. Originating summonses are not categorised as generally or specially endorsed.

#### 3.4 Can the pleadings be amended? If so, are there any restrictions?

A party may, at any stage of the proceedings, apply to the court for an order to strike out or amend any matter in any pleading or endorsement. The discretion of the court to allow amendments has been interpreted by reference to domestic case law and courts nowadays are generally reasonably lenient in allowing amendments applied for before the commencement of the hearing of the action.

### 4 Defending a Claim

#### 4.1 What are the main elements of a statement of defence? Can the defendant bring counterclaims/claim or defence of set-off?

The defendant is required to file an appearance within ten days from service of the writ. The court may allow an extension of time if the defendant lives abroad. The defendant must file and deliver to the claimant his defence, or his defence and counterclaim within 14 days from the filing of an appearance in the case of a specially endorsed writ or within 14 days from the filing of the statement of claim in the case of a generally endorsed writ.

If a party fails to file a pleading within the prescribed time limit, the other party may file an application for judgment in default. In that case, the defendant may request that the application for judgment in default be set aside on the basis that it has subsequently entered an appearance. However, the defaulting party will bear the legal costs of the proceedings in accordance with a scale fee based on the value of the claim.

#### 4.2 What is the time limit within which the statement of defence has to be served?

See question 4.1 above.

#### 4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on liability by bringing an action against a third party?

The court may give the defendant leave to issue and serve a third party notice on any person who is not already a party to the action from which the defendant claims a contribution or indemnity, or an entitlement to any relief or remedy relating to or connected with the original subject matter of the action.

#### 4.4 What happens if the defendant does not defend the claim?

The claimant may apply to the court for judgment in default of the filing of a defence.

#### 4.5 Can the defendant dispute the court's jurisdiction?

Yes, they can.

## 5 Joinder & Consolidation

#### 5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

As noted at question 4.1 above, the court may give the defendant leave to issue and serve a third party notice on any person who is not already a party to the action from which the defendant claims a contribution or indemnity, or an entitlement to any relief or remedy relating to or connected with the original subject matter of the action.

At any stage in the proceedings, the court may make an order adding to the action the names of any parties who ought to have been joined or whose presence before the court may be necessary in order to enable the court effectively and completely to adjudicate upon the questions involved in the action.

#### 5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

When two or more actions before the same court involve a common question of law or fact of such importance in relation to the rest of the matters involved in the actions as to make it desirable that the actions should be consolidated, then the court may order this.

#### 5.3 Do you have split trials/bifurcation of proceedings?

Correspondingly, where an action involves several causes of action which the court considers cannot be conveniently tried or disposed of together, the court may order that they should be tried separately.

## 6 Duties & Powers of the Courts

#### 6.1 Is there any particular case allocation system before the civil courts in Cyprus? How are cases allocated?

Cases are allocated to district courts on a geographic basis, as explained in question 1.2 above.

There are three ranks of judges in the district courts, namely presidents, senior judges and district judges, and cases are allocated to different ranks of judge on the basis of the value of the claim. For example, a commercial dispute with an amount at issue of €500,000 or more will usually be allocated to a president.

#### 6.2 Do the courts in Cyprus have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

The courts have extensive case management powers; they may dismiss an application or an action if they consider that it is frivolous or vexatious, that it is an abuse of the process of the court or that it causes unnecessary delay to the hearing of the case. Costs usually follow the event.

Parties may make a wide variety of interim applications, including applications for measures such as freezing injunctions, disclosure orders, search orders and gagging orders. They may apply for judgment in default of appearance or defence, for the proceedings to be amended or for the joinder of parties, the consolidation of actions or the joinder of causes of action, as well as for the discovery or inspection of documents and for security for costs.

In addition, the court encourages the parties to consider settling the case through ADR, with the court playing a facilitating role. However, unless the parties have expressly agreed to use a form of ADR, the court will not compel them to do so.

#### 6.3 What sanctions are the courts in Cyprus empowered to impose on a party that disobeys the court's orders or directions?

Contempt of court by disregarding a court order is punishable by a fine, imprisonment or both. If a party to proceedings disregards the court's directions, the court has wide discretion to make an order to rectify or redress the situation. It will also take the parties' conduct into account in its adjudication of the action.

#### 6.4 Do the courts in Cyprus have the power to strike out part of a statement of case? If so, in what circumstances?

Order 19, Rule 26 of the Civil Procedure Rules gives the court power to order to be struck out or amended any matter contained in any endorsement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass, or delay the fair trial of the action.

#### 6.5 Can the civil courts in Cyprus enter summary judgment?

Courts in Cyprus may enter summary judgment under Order 18 of the Civil Procedure Rules.

#### 6.6 Do the courts in Cyprus have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The Civil Procedure Rules empower the court to order the action to be discontinued or any part of the alleged cause of complaint to be struck out at any time and upon such terms as the court considers appropriate. The court also has power to stay the proceedings in a variety of circumstances.

## 7 Disclosure

### 7.1 What are the basic rules of disclosure in civil proceedings in Cyprus? Are there any classes of documents that do not require disclosure?

The discovery procedure is governed by Order 28 (Rules 1 to 15) of the Civil Procedure Rules.

Any party may apply to the court for an order of discovery on oath or for inspection of documents that are or have been in the other party's possession or power as regards any matter relating to such documents. If a party ordered to produce documents in a discovery proceeding fails to do so, he or she may not subsequently enter any document as evidence on his or her behalf that he or she failed to disclose or declined to allow to be inspected, unless the court is satisfied that he or she had sufficient excuse. Privileged documents are protected from disclosure (see question 7.2 below). Without prejudice documents are treated in the same way as in other common law jurisdictions - that is, communications that are genuinely part of a settlement attempt and are clearly marked "without prejudice" are protected from disclosure.

### 7.2 What are the rules on privilege in civil proceedings in Cyprus?

Confidential documents, self-incriminating documents and documents covered by legal professional privilege are considered to be privileged. Legal professional privilege covers both communications between a lawyer and his client for the purpose of giving or obtaining legal advice and communications and exchange of documents between a client and a third party for the purposes of giving or obtaining legal advice, or in relation to litigation. Legal professional privilege extends to foreign, but not in-house lawyers.

The Prevention and Suppression of Money Laundering Activities Law No. 61(I) of 1996, as amended, relaxes professional privilege in relation to lawyers offering services susceptible to money laundering or other similar activities.

### 7.3 What are the rules in Cyprus with respect to disclosure by third parties?

By applying equitable principles, the courts may grant "Norwich Pharmacal" order for the discovery of documents or information against a third party that is not a party to the proceedings.

### 7.4 What is the court's role in disclosure in civil proceedings in Cyprus?

The court has power to decide whether disclosure is necessary in the interests of disposing fairly of the cause or matter or for saving costs, and whether the documents or information are exempt from disclosure. It may make any appropriate order, including an order against a third party.

### 7.5 Are there any restrictions on the use of documents obtained by disclosure in Cyprus?

Any documents or information obtained by disclosure may be used only for the purposes of the action in connection with which they were disclosed.

## 8 Evidence

### 8.1 What are the basic rules of evidence in Cyprus?

All relevant evidence must be made available to the court. Until 2004, hearsay evidence was not admissible, but Law 132(I) of 2004 changed the law by providing that hearsay evidence should not be excluded from any procedure before the court merely because it is hearsay.

### 8.2 What types of evidence are admissible, which ones are not? What about expert evidence in particular?

Privileged documents or statements are inadmissible, as is evidence that was obtained illegally or in violation of the Constitution. All other evidence is, in principle, admissible.

### 8.3 Are there any particular rules regarding the calling of witnesses of fact? The making of witness statements or depositions?

The general procedure is for witnesses to give their evidence orally in open court and to be examined on it. In appropriate circumstances the court may order that any particular fact or facts be proved by affidavit, or that the affidavit of any witness be read at the hearing or trial of the case, on such conditions as the court may deem reasonable, or that any witness whose attendance in court ought, for some sufficient cause, to be dispensed with should be examined by some other means, including video-conferencing. Following a recent amendment to section 25 of the Evidence Law (Cap 9), the examination-in-chief of a witness may take the form of a written statement, the contents of which must be orally adopted by the witness.

Exceptionally, a number of interim applications are supported exclusively by affidavit evidence. It falls within the inherent jurisdiction of the court to permit the cross-examination of a witness of fact in these circumstances.

In other proceedings, such as a petition concerning the winding-up of a company, a mixture of oral and written evidence is most common.

### 8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Does the expert owe his/her duties to the client or to the court?

The opinion of an expert witness who relies on facts that are proven with evidence that may be admitted into court is generally admissible when an issue in dispute comes from the technical, scientific, professional, or market background and requires special expertise. Experts are called by the parties. Their reports may be exchanged before the trial and they will appear before the court to give evidence and be cross-examined on the content of their report.

The role of experts is generally to give their professional opinion on matters that have been raised and fall within their area of expertise. In principle, their duty is to provide independent advice to the court.

### 8.5 What is the court's role in the parties' provision of evidence in civil proceedings in Cyprus?

The court has wide discretion to allow or refuse the production of evidence or witnesses as it deems fit and in the interest of justice.

## 9 Judgments & Orders

### 9.1 What different types of judgments and orders are the civil courts in Cyprus empowered to issue and in what circumstances?

The courts have power to issue judgments and orders in relation to damages, specific performance or interest, as well as declaratory judgments. Interim orders concerning discovery of documents and interrogatories are commonplace. The Courts of Justice Law of 1960 gives the courts discretion to issue a wide variety of provisional measures. In addition to Mareva injunctions (that is, asset freezing orders), it is also possible to obtain Norwich Pharmacal disclosure orders, search orders to obtain and prevent the destruction of evidence, gagging orders and orders for the appointment of a receiver. In addition, the courts may make orders for the winding up of a company or in personal bankruptcy proceedings.

The Supreme Court of Cyprus has exclusive jurisdiction to issue the prerogative orders of *certiorari*, *habeas corpus*, *mandamus*, prohibition and *quo warranto*.

### 9.2 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

The courts have unfettered power to make rulings on damages, interest or costs of litigation within their jurisdiction.

### 9.3 How can a domestic/foreign judgment be enforced?

The Brussels Regulation has substantially altered the situation in relation to the recognition and enforcement in one EU Member State of a judgment obtained in another. Generally, a judgment given in one Member State must be recognised in another without the need for any special procedure (with the exception of Denmark). Under no circumstances can the substance of a judgment given in one Member State be reviewed in another. In addition, if a judgment issued in a Member State is enforceable in that State, it is also enforceable in another Member State when, on application by any interested party, it has been declared enforceable. Judgments are declared enforceable immediately on the filing of a copy of the judgment, accompanied by a certificate issued by the court in which the judgment originated.

Foreign judgments may also be enforced by direct registration, under the provisions of an applicable statute, under a bilateral treaty relating to the recognition and enforcement of foreign judgments (Cyprus has concluded such arrangements with Bulgaria, China, Germany, Greece, Hungary, Poland, Russia, Serbia and Syria) or under one of the several multilateral conventions that Cyprus is a party to. A judgment creditor can also enforce a foreign judgment in Cyprus at common law by bringing a fresh action.

Regulation (EC) 1346/2000 on insolvency proceedings is directly applicable in Cyprus. Under the Regulation, a judgment initiating insolvency proceedings issued by a competent court of an EU Member State will be recognised in Cyprus and *vice versa*.

### 9.4 What are the rules of appeal against a judgment of a civil court of Cyprus?

A party who is not satisfied with all or part of a first instance judgment can apply to the Supreme Court for review of the judgment. Judgments relating to interim applications are not subject to appeal unless they affect the essential rights of the

appellant. The grounds for appeal against a first instance judgment may be any disputed interpretation of the case, legal or factual. The Supreme Court rarely interferes with matters in relation to which the judge, at first instance, exercised his discretion.

A notice of appeal, setting out all grounds of appeal and the reasons relied on, must be filed within six weeks from the date of a judgment on the merits of the case (unless an extension is granted by the Supreme Court) or within two weeks from the date of an interim judgment.

After the notice of appeal has been filed, the appeal is scheduled for directions, which is when the Supreme Court usually sets the timetable for the filing of written submissions by the parties. Following filing of the written submissions, a hearing date is usually set for the purpose of obtaining any clarifications the Supreme Court may require and then the matter is decided (ordinarily judgment is reserved).

## II. ALTERNATIVE DISPUTE RESOLUTION

### 1 Preliminaries

#### 1.1 What methods of alternative dispute resolution are available and frequently used in Cyprus? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

There are three main ADR methods in use in Cyprus, namely mediation, conciliation and arbitration. ADR is most frequently used in the construction, shipping and energy-related sectors.

#### 1.2 What are the laws or rules governing the different methods of alternative dispute resolution?

The interface between the courts and arbitration proceedings is governed by the Arbitration Law, Cap 4, the International Commercial Arbitration Law of 1987, and the Law on the Recognition and Enforcement of Foreign Arbitral Awards of 1979.

The rules governing the application of the method of alternative dispute resolution concerned will be set by the alternative dispute resolution forum chosen by the parties.

#### 1.3 Are there any areas of law in Cyprus that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

Any civil dispute, apart from some administrative law matters, may be resolved through alternative dispute resolution.

#### 1.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court - pre or post the constitution of an arbitral tribunal - issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, will the court force parties to arbitrate when they have so agreed, or will the court order parties to mediate or seek expert determination? Is there anything that is particular to Cyprus in this context?

Where civil proceedings have been commenced in relation to a matter which is subject to an arbitration agreement between the parties, the court concerned is required to refer the dispute to

arbitration on the application of any of the parties involved before the taking of any steps in the proceedings, unless it judges that the arbitration agreement is invalid.

Courts have the power to issue protective measures at any time in support of arbitration proceedings.

Cyprus has not yet implemented Directive 2008/52/EC on mediation in civil and commercial matters and there is no parallel power or requirement to encourage mediation.

**1.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to Cyprus in this context?**

An arbitral award is binding and enforceable. The Arbitration Law and the International Commercial Arbitration Law set out the circumstances in which arbitral awards may be challenged, generally on grounds of impropriety.

An agreed settlement following a mediation process would need to be expressed as an agreement between the parties or be sanctioned by the court in order to be binding and enforceable.

**2 Alternative Dispute Resolution Institutions**

**2.1 What are the major alternative dispute resolution institutions in Cyprus?**

The alternative dispute resolution institutions currently functioning in Cyprus include the Arbitration Service of the Cyprus Chamber of Commerce and Industry, the Cyprus Arbitration and Mediation Centre, the Cyprus Eurasia Dispute Resolution and Arbitration Center and the Euro-Mediterranean Alternative Dispute Resolution Centre. The Euro-Mediterranean Alternative Dispute Resolution Centre is also the headquarters of the Mediterranean Maritime Arbitration Association.

**2.2 Do any of the mentioned alternative dispute resolution mechanisms provide binding and enforceable solutions?**

All are capable of providing binding and enforceable solutions, with the cooperation of the parties.

**3 Trends & Developments**

**3.1 Are there any trends in the use of the different alternative dispute resolution methods?**

Alternative dispute resolution is still in its early stages in Cyprus and the government has done little to encourage it, but most legal practitioners recognise that it needs to be developed rapidly in order to address the long delays inherent in litigation involving the courts.

**3.2 Please provide, in no more than 300 words, a summary of any current issues or proceedings affecting the use of those alternative dispute resolution methods in Cyprus?**

Cyprus has yet to implement Directive 52/2008 EC on mediation in civil and commercial matters, the implementation date of which was 21 May 2011, and the EU Commission is taking enforcement action in this regard. Despite the government's lack of action, there is enthusiasm within the legal profession for the introduction of alternative dispute resolution and several initiatives are under way.



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Panayiotis Neocleous graduated in law from Bristol University in 1994. He was admitted to the Cyprus Bar in 1995 and became a partner in Andreas Neocleous & Co in 2000. He currently heads the firm's dispute resolution and shipping departments. Panayiotis is the Cyprus representative of Fraudnet, a network of law firms specialising in white-collar crime organised under the auspices of the International Chamber of Commerce. Panayiotis specialises in large-scale commercial litigation, asset tracing and recovery, admiralty and shipping law, company law and international trade law and shareholders' disputes. He has been responsible for establishing several important precedents in the Cyprus courts.



Andreas Neocleous & Co LLC is among the largest law firms in south-eastern Europe and the eastern Mediterranean region, and has earned a world-class reputation for quality. Headquartered in Limassol, Cyprus, the firm also has offices in Nicosia and Paphos in Cyprus, as well as in Russia, Belgium, Hungary, Ukraine, and the Czech Republic.

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