

Litigation - Cyprus

Court decides on taking of evidence via teleconferencing

Contributed by **Andreas Neocleous & Co LLC**

June 26 2012

EU Council Regulation 1206/2001 on cooperation between the courts of the member states in relation to the taking of evidence in civil and commercial matters is not among the most widely known pieces of European legislation. Indeed, in the eight years since Cyprus joined the European Union in 2004 there have been only a few instances in which the Cyprus courts were asked to make use of the regulation. It is for this reason that any decision of a Cyprus court on the matter is of considerable interest.

The regulation is directly binding upon all member states except Denmark, and its main objective is the improvement of cooperation between the courts of the member states on the taking of evidence in civil and commercial matters. The regulation requires member states to comply expeditiously with requests made by the courts of other member states under the regulation and provides a framework for a court of a member state to take evidence directly in another member state.

The case law on the regulation (both reported and unreported) indicates that the Cyprus courts have been eager to accommodate and promote the spirit of the regulation.⁽¹⁾ The Supreme Court of Cyprus, referring initially to the purpose of the regulation and the aims it purports to achieve, concluded in *Demetriou v Gondova*⁽²⁾ that the execution of a request is not at the discretion of the court to which the request is addressed, but that the only grounds for refusal are those specified in Section 14 of the regulation.

In *IRZDRZ ao v FHL*,⁽³⁾ on the application of the plaintiffs, the Limassol District Court allowed the testimony of one witness - who for health reasons could not travel to and attend the hearing in Cyprus - to be given via teleconferencing in Germany, in accordance with Article 10(4) of the regulation.

Citing *Beogradska Bank v Westacre Inc.*,⁽⁴⁾ the court made it clear that the absence of specific rules (such as the practice directions issued in the United Kingdom) regulating or providing for the due execution of the regulation, and in particular certain procedural issues regarding the process of the taking of evidence, could in no manner affect the effectiveness of a directly applicable legal instrument such as the regulation. The judge further stated that in the event that technical problems could possibly interfere with the proper conduct of the hearing (especially the cross-examination) the court would intervene in order to rectify the situation in the interests of justice.

This decision to allow the taking of evidence via teleconferencing confirms the Cyprus courts' long-established readiness to do whatever is necessary within their powers to ensure the right of all litigants to a fair trial.

For further information on this topic please contact **Chrysanthos Christoforou** at **Andreas Neocleous & Co LLC** by telephone (+357 25 110 000), fax (+357 25 110 001) or email (chrysanthos@neocleous.com).

Endnotes

- (1) See especially *Demetriou v Gondova*, Civil Appeal 53/2010, dated June 24 2010.
- (2) *Ibid.*
- (3) Civil Action 2419/04.
- (4) (1999) 1 CLR 124.

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

Chrysanthos Christoforou

