

Cyprus

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I. LITIGATION

1 Preliminaries

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

Cyprus has a quasi-common law jurisdiction which has been influenced by English and Greek law. Section 29(1)(c) of Courts of Justice Law introduces and endorses common law in the Cypriot legal system.

The courts are bound by the doctrine of precedent, according to which the superior courts' decisions bind subordinate courts. Civil procedure in Cyprus is regulated by the 1954 Civil Procedure Rules (*CPR*) which have been amended from time to time.

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

Cyprus has five districts which act as courts of first instance and one Supreme Court. Each district court has jurisdiction to try civil cases which fall within their territorial jurisdiction, except for specific civil matters which fall within the jurisdiction of specialised courts. Namely, the:

- family court;
- rent control court;
- industrial disputes court; and
- military court.

All first instance court judgments are subject to appeal before the Supreme Court, whose judgments are final unless overturned by the European Court of Human Rights or the Court of Justice of the European Union.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

The main stages in civil proceedings are:

- filing of a writ of summons or originating summons;
- service of judicial documents on defendants (leave of the court must be obtained only if defendants reside out of the jurisdiction);
- exchange of pleadings;
- summons for directions whereby parties can request, *inter alia*, disclosure and inspection of documents, further and better particulars;

- trial; and
- assessment of costs.

The CPR prescribes specific timeframes for each stage which can be extended with leave of the court. The average time at first instance is about four to five years from the date of filing depending on the complexity of the case and the court's caseload.

There are two forms of expedited proceedings: (a) claims under €3,000 are subject to a fast-track procedure (see question 8.1); and (b) a summary judgment (see question 6.5).

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

Courts strictly respect exclusive jurisdiction clauses and have the power to (a) stay proceedings initiated in breach of an exclusive jurisdiction clause, or (b) issue an anti-suit injunction if proceedings have been initiated in a country outside the European Union and jurisdiction is prescribed in favour of the Cyprus courts.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

The costs will depend on the economic scale and complexity of the case and include the costs of the proceedings (i.e. filings, applications, hearing, appearances, witnesses, etc.). The awarding of costs lies in the court's discretion, but these are generally awarded to the successful litigant in whole or in part (i.e. costs follow the event). A successful party in a complex legal matter may only be awarded part of the costs.

Costs are assessed by the court registrar and approved by the court, unless otherwise agreed between the parties. Pre-trial offers to settle do not have any effect on cost orders unless they are in the form of payment to the court (see question 10.1).

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are contingency fee/conditional fee arrangements permissible?

Funding of litigation is usually provided by the parties to the legal proceedings.

Contingency fee agreements are prohibited as they offend the equitable principle against champerty, which aims to restrict the funding and selling of litigation.

Third-party funding is not expressly prohibited, although its legality has yet to be considered by courts.

Legal aid can only be granted in cases of specific violations of human rights, cross-border disputes and family and matrimonial law disputes.

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

The law expressly prohibits the assignment of claims arising from tortious conduct. Assignment of any other cause of action could potentially go against the principle of champerty and maintenance.

1.8 Can a party obtain security for/a guarantee over its legal costs?

A defendant can apply for security for costs to ensure that it will be able to recover litigation costs from an unsuccessful claimant. The conditions that must be satisfied in order for a security for costs order to be made are as follows:

- the claimant or counterclaimant must be domiciled outside the jurisdiction of Cyprus in a non-EU state; and
- the claimant or counterclaimant must not have sufficient assets within the jurisdiction to satisfy any order that may be made against it in relation to litigation costs.

If an order for security for costs is not satisfied within the time directed by the court, the action may be dismissed.

2 Before Commencing Proceedings

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

There are no pre-action procedures that must be followed before the filing of an action, unless there is a court order affecting any of the parties' rights.

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?

The Cypriot laws of limitation are quite complex as a result of historical reasons. In 1963, Parliament decided to suspend the limitation periods (subject to various provisions and laws enacted from time to time). Today, the Limitation of Actionable Rights Law of 2012, Law 66(1)/2012 (*Limitations Law*), which was enacted as of 01/07/2012 but came into full effect on 01/01/2016, regulates the limitation periods applicable to civil and commercial claims.

In general, the limitation period for a claim is triggered on the day of completion of the cause of action; however, for most causes of actions and in virtue of the Limitations Law, limitation periods count from 01/01/2016 as opposed to the date on which the cause of action accrued.

The Limitations Law provides for different limitation periods depending on the nature of the cause of action, and provides for a general limitation period of 10 years where there is no specific provision made. Indicatively:

- Civil wrongs: general limitation period of six years. Nevertheless, if the cause of action accrued before 01/07/2012, actions are subject to a three-year time bar (pursuant to section 68 of the Civil Wrongs Law, Cap. 148), while if the cause of action accrued after 01/07/2012 then the limitation period begins running from 01/01/2016.
- Negligence, nuisance or breach of a statutory duty: three years.
- Defamation or malicious falsehood: one year.
- Contract: six years.

- Contract or to a quasi-contract in relation to an agreed or reasonable remuneration of independent professionals: three years.

3 Commencing Proceedings

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

Civil proceedings are initiated by the filing of a writ of summons or an originating summons, which must be in turn served to the defendants.

Service of judicial documents is effected through a private process server to the defendant in person or at his/her house or usual place of employment. Service on a corporate entity is effected either (i) at its registered office on a person who is authorised to accept service, or (ii) on the company's directors or secretary.

If service cannot be effected in the manner prescribed by the CPR, a party can request leave from the court for substituted service.

The writ of summons must be served within 12 months and this may be renewed by the court before the time expires, given that the court is satisfied that reasonable efforts for service have been made.

If a defendant resides outside the jurisdiction, leave of the court must be obtained before the claim is served. The method of service depends on any existing treaty or agreement between Cyprus and the country in which the defendant resides.

Service to defendants residing in the European Union is carried out pursuant to Council Regulation (EC) No. 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, which provides for the following means of service:

- post;
- direct service (if permitted by the state's domestic law);
- diplomatic or consular agents; and
- transmitting and receiving agencies designated by the state. In Cyprus, the Ministry of Justice and Public Order has been designated as the receiving agency.

If the country in which the defendant resides is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965, the following means are also available:

- postal channels, directly to persons abroad;
- designated judicial officers;
- by post (if there is no objection to this); and
- in accordance with any bilateral agreement concluded between the signatory parties.

Cyprus has entered into bilateral agreements with a number of countries on the service of documents, pursuant to which service can be effected accordingly.

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

There are no pre-action interim remedies available in Cyprus. The courts do not have jurisdiction to issue a self-standing injunction, hence there must be some kind of originating application pending before the Cypriot court, which usually takes the form of a civil action.

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

The statement of claim should set out:

- the material facts of the claim so that the defendant is given due notice of the case so as to avoid being caught by surprise at the trial;
- the elements of the cause of action;
- if the claim contains a plea on misrepresentation, fraud, breach of trust, wilful default or undue influence, full particulars thereof; and
- the relief sought, including interest.

Parties cannot adduce evidence to support facts or allegations which have not been pleaded.

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

As of 01/01/2015, amendments to pleadings can be made as follows:

- without leave of the court at any time after the filing of the writ of summons and before service is effected; or
- without leave of the court after the exchange of pleadings but before summons for directions. In this case pleadings can be amended only one time.

After the issuance of the summons for directions, no amendment is permitted unless the court is satisfied that this relates to (a) a *bona fide* mistake, or (b) new facts which did not exist at the time pleadings were filed.

For cases filed before 01/01/2015, amendment to the pleadings could be made at any stage of the proceedings with leave of the court and under very specific circumstances.

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

The claimant can withdraw its claim against all or any of the defendants at any time prior to receiving the statement of defence or after receiving the defence, but before pursuing any further action by giving a written notice to the court Registrar. The claimant is entitled to pay the defendant's legal costs and is not barred from bringing a new action.

The claimant may withdraw or discontinue the claim at any other stage by obtaining leave of the court.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

A defendant may:

- deny allegations;
- admit allegations;
- indicate which allegations it can neither deny nor admit due to lack of knowledge;
- present alternative version of the facts; or
- raise specific defences.

Any allegations not addressed in the statement of defence are deemed to be admitted (unless this relates to damages).

The defendant can bring a counterclaim provided that such a claim relates to the issues raised in the claim. The defence of set-off is available under Cypriot law.

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

For proceedings served within the jurisdiction, the defendant must file its defence within 14 days of service of the statement of claim.

For proceedings served outside the jurisdiction, time limits vary depending on the orders given by the court.

If an application for summary judgment has failed, the defendant must file its defence pursuant to the court order; and if no timeframe is specified, within eight days after the order.

The defendant may request a time extension from the court.

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

The court may give leave to the defendant to issue and serve a "third party notice" or a notice for a claim against a co-defendant if the defendant can show that:

- it is entitled to contribution or indemnity;
- it is entitled to essentially the same or some relief claimed by the claimant; or
- that any issue relating to the subject matter is substantially the same as an issue arising between the claimant and the defendant, and should properly be determined not only as between the claimant and the defendant but as between the claimant, the defendant and the third party.

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

A default judgment can be obtained if the defendant fails to:

- file an appearance within the prescribed period of 10 days; or
- file its defence within the specified timeframe.

A default judgment can be set aside if the defendant has good reasons for not filing his defence and shows that he has a real prospect of defending himself.

4.5 Can the defendant dispute the court's jurisdiction?

A defendant that wishes to dispute the court's jurisdiction may either (a) file a conditional appearance objecting to the court's jurisdiction, or (b) obtain leave to file a conditional appearance and subsequently file a conditional appearance.

Additionally, a defendant can dispute the court's jurisdiction and apply to the court to have the claim dismissed and/or set aside and/or request to strike out part or the whole action if the court lacks jurisdiction.

If steps are taken without challenging the court's jurisdiction, the defendant may be taken to having submitted to the jurisdiction of Cypriot courts.

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?

The CPR contains provisions for the joinder of claimants or defendants as parties to the claim provided there is a cause of

action by or against each party joined and provided that such joinder will facilitate the adjudication of all disputed issues. An interested party may also apply to the court to intervene under common law principles.

The court also preserves a discretionary power to order separate trials in order to ensure the swift and efficient conduct of the proceedings.

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 are pending before the same court and the claims involve a common question of law or fact, the court may order consolidation of proceedings upon the application of a party.

Where a party is added to the proceedings, the writ of summons and/or the pleadings must be amended accordingly.

5.3 Do you have split trials/bifurcation of proceedings?

The courts have the discretion to order split trials, either on their own initiative or upon application by the parties in a case where this is considered to be in the interests of justice.

6 Duties & Powers of the Courts

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

The Cypriot courts apply a scale allocation system pursuant to which cases are allocated according to the value of the claim.

As of 01/01/2016, there is a two-tier track system based on which the claims are allocated according to their value:

- fast adjudication track: disputes not exceeding €3,000 or non-monetary claims; and
- hearing adjudication track: claims over €3,000.

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

Courts are guided by the overriding objectives of the CPR which include saving expenses, ensuring that parties are on an equal footing and ensuring matters are dealt with expeditiously.

Cyprus courts have a wide discretion to grant a variety of interim applications, including applications for:

- setting aside service;
- judgment in default;
- summary judgment;
- interim relief; and
- striking out of a statement of claim or pleading.

Cost usually follow the event (see questions 1.5 and 9.2). The court directs whether these are payable immediately or upon the conclusion of the main proceedings.

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

Disobedience of a court order amounts to "contempt of court" and the court has the power to compel compliance, impose

a fine, imprisonment or attach or sequester assets, upon a committal application.

6.4 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

Courts have the power, on their own motion or upon application of the parties, to strike out a pleading, in whole or in part, amend a pleading or even dismiss the action which is (i) unnecessary or scandalous, (ii) there is no reasonable cause of action, or (iii) may tend to prejudice, embarrass, or delay the fair trial of the action. However, the courts exercise that power very cautiously.

The application to set aside/dismiss or strike out court proceedings must be made without delay and during the pre-trial stages.

6.5 Can the civil courts in your jurisdiction enter summary judgment?

Courts have the power to issue summary judgments without allowing the defendant to be heard on the basis that the defence has no real prospect of success and no "bona fide" defence exists. The CPR sets out specific conditions which must be satisfied in this respect.

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

The claimant may at any time of the proceedings discontinue/withdraw its claim (see question 3.5).

The courts also have jurisdiction to stay proceedings in certain circumstances, including pending appeal of an interim judgment, which may affect the proceedings, or due to lack of jurisdiction.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

Any party can apply to the court for discovery under oath and for inspection of documents that are or have been in the other party's possession, custody or power. Disclosure and discovery applications are now made in the course of summons for directions.

Parties must disclose:

- documents considered relevant to the matters in question even if these adversely affect the parties; and
- documents referred to in pleadings or affidavits (for which inspection must also be allowed).

The following documents do not have to be disclosed:

- documents which are not material to the case;
- privileged documents; and
- without prejudice documents.

Documents which are not disclosed cannot be adduced as evidence. Parties have a continuous obligation to disclose any new relevant documents that come into their possession. In cases where there are valid grounds to suspect that the other party has not provided full disclosure, a party can apply for specific disclosure.

Disclosure is followed by an inspection whereby each party can physically inspect or request copies thereof.

There are no provisions relating to electronic disclosure.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

Privileged documents that are deemed confidential are not subject to disclosure and are as follows:

- documents “without prejudice”, e.g. communications between the parties’ lawyers (either discussing the case or potential settlement options);
- legal professional privilege which includes (a) confidential communications between lawyers and clients containing legal advice, and (b) communication between lawyers, the client and third parties in relation to pending or contemplated litigation; and
- self-incriminating information.

Legal professional privilege applies to practising but not in-house lawyers. Additionally, according to the relevant anti-money laundering regulations, disclosure may be required if there are reasonable suspicions that services susceptible to money laundering are offered.

In the case that a party requests disclosure of a specific document which is privileged, the court will inspect it and then decide whether it should be produced.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

The general rule is that a non-party to the claim cannot be compelled to make a disclosure. However, the CPR allows for a third party to be summoned to produce documents to the court during the trial.

Additionally, if specific requirements are met, the courts have the power to grant disclosure orders against non-parties who are “mixed up in the tortious acts of others so as to facilitate their wrongdoing”, known as a “Norwich Pharmacal Order”.

7.4 What is the court’s role in disclosure in civil proceedings in your jurisdiction?

The court supports the disclosure procedure by granting disclosure orders and supervising the procedure.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

There is no specific provision restricting the use of documents obtained by disclosure procedures.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

The general rule is that a party must present all available material evidence and this must be disclosed prior to the hearing (see question 7.1).

As of 01/01/2016:

- for claims exceeding €3,000, the parties must exchange a list of intended witnesses and a summary thereof prior to the hearing. The court may order that written statements

are exchanged prior to the hearing if both parties agree. Witnesses are introduced in trial by examination-in-chief followed by cross-examination and re-examination (within specific time limits prescribed by the CPR and the court). A witness may adopt the content of a written submission or statement which will stand as examination in chief; and for claims under €3,000, parties must exchange written statements (oral evidence is given in exceptional circumstances).

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

The types of admissible evidence encompass:

- oral evidence (witnesses on oath, expert witnesses);
- documentary evidence (public and private documents); and
- real evidence (inspection of physical objects by the court).

Hearsay evidence is admissible, although the weight the court attaches may be affected by a number of factors.

Evidence that: (i) is irrelevant; (ii) is extrinsic; (iii) is privileged; (iv) was obtained illegally; or (v) supports an allegation which has not been pleaded, is inadmissible.

An expert witness can give evidence in relation to facts and opinion. There is no specific procedure for adducing expert evidence (see question 8.4).

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

Parties are at liberty to decide the number of witnesses, the order in which they will be called and what kind of evidence they will adduce to prove their case (see question 8.1).

A witness may be summoned and compelled to appear if reluctant.

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

The parties are free to produce expert witness testimony to support their case when an issue in dispute is not of common knowledge but rather of a scientific, medical, technical or professional nature. The expert is called to give evidence for matters within its sphere of expertise. It is also possible for the court itself to seek the provision of expert testimony, but this is very rare.

The expert witness can produce an expert report, testify orally or file an affidavit.

An expert must be independent and owes its duties to the court. The expert must provide the court with all the necessary scientific/technical information in order to enlighten and assist the court with its expertise and enable the court to reach its own conclusion.

9 Judgments & Orders

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

Courts have wide discretion and may issue a variety of judgments, including:

- summary judgments;
- consent orders or judgments;
- judgments in default;
- declaratory judgments;
- judgments for the payment of damages; and
- specific performance.

Cypriot courts also have the power to grant a variety of orders and interim reliefs, including:

- freezing orders (known as Mareva injunctions);
- disclosure orders (known as Norwich Pharmacal orders);
- search orders (known as Anton Pillar orders); and
- orders in aid of foreign proceedings and foreign arbitrations.

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

Damages

The courts have the power to award damages for loss suffered, including financial/economic loss. Types of damages can be classified as follows:

- special damages compensate the claimant for quantifiable monetary losses;
- general damages can be awarded to compensate the claimant for non-quantifiable losses;
- punitive or exemplary damages are only awarded in cases where the court deems that the defendant's conduct demonstrates elements of insolence or malice; or
- damages in contract law are governed by the general rule of remoteness of damages and the claimant has an obligation to mitigate its loss.

Interests

The court has discretion to award legal interest (a) on the whole judgment award for a period between the date of filing of the action until the date on which the judgment was delivered, (b) on part of the judgment award, the whole or (c) only part of the period between the date of filing of the action and the date on which the judgment was delivered. In cases of fraud or deceit the interest is calculated from the date that the cause of action accrues.

In a monetary judgment, on the basis of a contract the court usually awards interest as provided for in the contract from the date of its accrual until final repayment.

Costs

Costs usually follow the event (see question 1.5 above).

9.3 How can a domestic/foreign judgment be recognised and enforced?

Domestic judgments

A judgment becomes automatically enforceable. The Civil Procedure Law, Cap. 6, provides for, *inter alia*, the following methods of enforcement:

- writ of execution for the sale of movables;
- writ for sale of immovable property or registration of a charge over the property;
- writ of sequestration of immovable property;
- writ of possession, ordering property to be delivered to the judgment creditor;
- an order to the judgment debtor to make payments over the debt on a monthly basis; and

- injunctions and other orders encumbering the interest of the judgment debtor on shares and other stock owned.

In addition, bankruptcy or liquidation proceedings can be initiated against a judgment debtor.

Foreign judgments

The recognition and enforcement of foreign court judgments can be based: (i) on the provisions of the Regulation 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; (ii) on the provisions of a bilateral or multilateral convention between Cyprus and other countries, in which case reliance can be given on the law of Judgments of Foreign Courts (Recognition, Registration and Enforcement pursuant to a Convention), Law 121(I)/2000; (iii) on the Foreign Court Judgments Law (Reciprocal Enforcement), Cap. 10; and (iv) on a common law action pursuant to domestic private international law.

In relation to judgments issued by courts of European Member States, judgments are recognised without any special procedure and without the need of a declaration of enforceability for proceedings instituted on or after 10/01/2015. The court must be satisfied that the conditions necessary to establish the authenticity are fulfilled. The recognition of a foreign judgement can be refused for specific reasons set out in Regulation 1215/12.

In cases where there exists a treaty or convention between Cyprus and the country which has issued the judgment, the procedure is governed by the specific treaty or convention.

Any other cases would entail the filing of a new claim in Cyprus, in which the cause of action would be the foreign judgment itself (by a common law action).

Once a foreign judgment has been recognised and registered in Cyprus, it obtains the status of a domestic judgment.

9.4 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

There is no requirement to obtain leave for appeal; however, this must be done within the prescribed periods. The following judgments are subject to appeal:

- any final judgment of a first instance court exercising civil jurisdiction;
- any order of a prohibitory or imperative nature, or any order for the appointment of a receiver; and
- interlocutory judgments only if they have a determinative effect on the rights of parties.

The appeal may be against the whole or part of the judgment.

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

There are no formal mechanisms of settlement, and parties are free to settle cases in any stage of the proceedings.

A defendant can make payment into court as a settlement offer. If the claimant does not accept this offer and the outcome of the trial is the same or less favourable than what was offered, the claimant may be ordered to pay the legal costs of the other side.

II. ALTERNATIVE DISPUTE RESOLUTION

1 General

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

The alternative dispute resolution (*ADR*) methods that are available in Cyprus include arbitration, mediation and conciliation.

The most frequently used form of ADR is arbitration proceedings. Arbitration secures privacy and confidentiality and is a speedy means of resolution.

Mediation is a non-binding, private, confidential and low-cost procedure in which the parties, with the help of an intermediary, attempt to reach a binding settlement agreement.

Conciliation is a non-binding procedure in which the conciliator can provide the parties with a non-binding opinion on possible settlement terms.

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

The Arbitration Law, Cap. 4 governs domestic arbitral proceedings while the International Commercial Arbitration Law (Law 101/87) regulates international arbitration. Arbitration procedures are also regulated by Order 49 of the CPR.

Mediation is governed by Law 159 (I)/2012, which implements Directive 2008/52/EC on mediation in civil and commercial matters and applies also to cross-border disputes.

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

Matters concerning (a) criminal law, (b) family law, and (c) matters that may have public policy implications are considered to be non-arbitrable.

Similar considerations apply to mediation; however, mediation is often used to resolve family disputes.

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, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

The courts respect and enforce arbitration agreements and can issue anti-suit injunctions or protective measures in aid of foreign arbitrations.

Courts have a supportive role in facilitating domestic arbitral proceedings and may:

- intervene to resolve disputes over the appointment of arbitrators;
- remove arbitrators; and
- issue injunctive reliefs in aid.

Mediation in Cyprus is not a compulsory step before resorting to court, but the courts tend to invite parties to resolve disputes using ADR methods.

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 your jurisdiction in this context?

Arbitration

An arbitration award is final, binding and enforceable, but a party can appeal to the courts under certain circumstances. Domestic arbitration awards may be set aside by the court on the grounds of misconduct or irregularity of proceedings. The court's judgment is subject to appeal.

International arbitration awards cannot be challenged on the merits *per se*, but a court application can be made for the award to be set aside within three months of the notification of the arbitral award, based on the following grounds:

- invalidity of the arbitration agreement;
- irregularity affecting the tribunal;
- lack of jurisdiction; and
- the arbitral award violating public policy matters.

The New York Convention, to which Cyprus is a party to, provides for the enforcement of Cyprus arbitration awards in all the Convention parties in accordance with their laws.

Mediation

Mediation requires agreement by the parties, who are free to terminate the mediation proceedings whenever they wish. If a settlement agreement is reached through mediation, the parties may file an application to the court for the enforcement of the settlement agreement. The settlement agreement will be enforced as any other court judgment.

2 Alternative Dispute Resolution Institutions

2.1 What are the major alternative dispute resolution institutions in your jurisdiction?

ADR institutions in Cyprus include the Cyprus Chamber of Commerce and Industry (*CCCI*) and the Cyprus Arbitration and Mediation Centre (*CAMC*).



Michael Kyriakides leads the Corporate Litigation and Advisory Department at Harris Kyriakides LLC. He specialises in heavy commercial litigation in Cyprus and overseas and he has acted as lead counsel in a number of major, long and complex cases, many of them involving corporate and shareholder disputes, injunctions, trusts, conspiracy and civil fraud. Having been involved in litigation practice from the start of his career, he has considerable experience of advocacy and is well used to coping with the challenges presented by heavyweight trials, arbitrations and applications. At the same time, he advises on corporate matters pertaining to Cypriot law and has represented governments, multinationals and large organisations and corporates in corporate advisory work, including M&A, competition and public procurement.

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