



Where to start: reforming a legal system to attract foreign investment

By Dr Nicolas Kyriakides, lecturer on Civil Procedure at the University of Nicosia

Attracting foreign investment is absolutely key to any country's long-term economic prospects. Research FDI quotes: *Foreign governments encourage international investments by the political stability of a country. A business's prosperity is based on a government's favourable legislation and political goodwill.* And this modern world is smaller – it's easier than ever for businesses to explore new opportunities in far-flung destinations and expand into territories that wouldn't have been on their radar a few years ago. So, whilst opportunities are greater, so too are the risks and the competition. To be considered an attractive destination for foreign investments, countries must present a transparent, logical and consistent legislation and litigation regime. There can't be a whiff of corruption. But how do you go about reforming a legal system, to make it fit for the modern age? It's not just about reform either, but constant improvement. In today's fast-moving world, no country can afford to take its eye off the ball and risk their justice system stagnating and looking outdated.

In Cyprus, we faced such challenges and I believe our recent reforms could act as a blueprint for any jurisdiction looking to overhaul or even re-jig their legal system. Ultimately, we have seen a multi-pronged approach which is steadily considering all aspects of the country's legal system. Reports by the Institute of Public Administration of Ireland and a committee led by Lord Dyson in 2018 laid the groundwork for these reforms.

It began really, with court delays. The courts in Cyprus were notorious for both lengthy court proceedings and a growing backlog in civil and commercial cases. In particular, there are now approximately 5,000 cases pending in the Supreme Court and 42,000 cases pending in other courts while 25,000 of these cases have been pending for over two years. These figures sparked the need for reform, a move which was supported both domestically and in Europe. The first step was new civil procedure rules.

Elisa Ferreira, European Commissioner for Cohesion and Reforms commented: *"For decades, Cyprus' justice system has been suffering from lengthy court proceedings and an increasing backlog in litigious civil and commercial cases. I am pleased that the Commission is continuing to support Cyprus in its judicial reform, not least with the*

reform and adoption of the new civil procedure rules by the Supreme Court of Cyprus. Effective justice systems are essential for social fairness, mutual trust, a favourable investment climate and the sustainability of long-term growth."

1. Clear the Backlog

These new civil procedure rules, which will be implemented in September 2023, aim to improve the way courts handle disputes. Emphasis will be placed on the need for a better approach to civil procedure and an improvement on the current justice culture.

Obviously, court backlogs are not just a problem in Cyprus. To deal with the problem, we have recently introduced additional courts to help clear the backlog. Perhaps we could see a similar move in jurisdictions such as England and Wales, which are too struggling to clear a glut of cases, built up over COVID and down to a lack of judges and resources? In 2021, it was reported that the backlog in the crown courts in England and Wales had reached 54,000 unheard cases.

In Cyprus, the new Commercial Court will consist of five judges and will be primarily devoted to handling commercial disputes of claims exceeding 2,000,000 euros as well as matters related to competition law, intellectual property and arbitration. From the perspective of attracting foreign investment, this new court will also have a specific focus on settling international disputes.

The new Admiralty Court will consist of two judges and will be primarily devoted to handling cases related to a vessel. Also a new Court of Appeal was established, which introduces three tiers of justice for the first time.

A further reform, The Backlog Project, is also focused on clearing this delay, which can be as much as seven years in some cases – particularly civil.

2. Focus on Digital

Next, any country wishing to ensure its litigation regime stands up to international scrutiny needs to consider technology. In the UK, we have seen how the courts have begun on a journey to technological transformation and this is essential for any country to ensure its litigation regime remains attractive. Take the Supreme Court as an example, which has been on a four-year journey to digitise paperwork and

ensure hearings can be carried out remotely if needed. Cyprus too has been on a journey recently to ensure its justice system is robustly prepared for the future. This has meant taking steps to introduce a new e-justice system, digitising court administration and providing users with some essential transparency to the system and enabling them to check on the progress of their case.

3. Clear our Corruption

Again, we've seen lobbying come front and centre in recent years in the UK, with the Greensill lobbying scandal for example, which saw "the most serious controversy about government lobbying and cronyism for years", according to The Guardian newspaper. A solid regime of regulating lobbying is essential to ensure there's a transparent line of communication between civil society, the government and business. More transparency in this way can also account for less conflicts which will also lead to less cases needing to be brought to court.

In Cyprus we have seen a new law introduced (as of February 2022) to regulate lobbying and ensure any contact between lobbyists and policymakers or state officers will have to be made public along with the content of the conversations. Zenox Public Affairs, the first third-party lobbying firm in Cyprus, has also introduced Nomoplatform, an initiative implemented which further improves transparency by providing access to the policymaking process by monitoring pending legislation and informing interested individuals.

A modern, transparent and efficient legal system is essential for any well-functioning country which wishes to not just attract foreign investment, but keep up on the world stage. For England and Wales, this means maintaining its position as an international hub. For Cyprus, this means overhauling outdated systems to attract overseas investment. However, the steps are the same and these examples really do provide a blueprint for any jurisdiction looking at its own justice system.

Dr Nicolas Kyriakides, a lecturer on Civil Procedure at the University of Nicosia who also runs a research unit. He has been consulted by government on changing legislation and regulation in his home territory. He is Partner and Head of Harris Kyriakides' Banking & Finance and Insurance Law Departments.