



Republic of Cyprus

Narrative National Report

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PART I: LEGAL FRAMEWORK

Prior Note

After the end of the trial, a party who has obtained a court's judgment or order can request that the court will take enforcement measures. The legal term "*enforcement*" refers to the forced implementation of the content of a judgment or order with the court's assistance and, in some cases, with the additional assistance of other competent officers and/or services, such as the Land Registry¹. The enforcement of judgments is a matter of public interest since it refers to the authority and effectiveness of judicial proceedings. This has been repeatedly held in case law². At the stage of execution, the judgment creditor has a private right which is for the public interest, whereas the judgment debtor has primarily a legal obligation to pay the judgment debt³.

Regarding the competent authorities for enforcement in Cyprus, these are the judicial officers of the Courts, the Land Registry and, when it comes to enforcement of an order to collect overdue maintenance payments, the police.

Moreover, in Cyprus, the enforcement against movable assets is carried out mainly through bailiffs ("*dikastikoí epidotes*"), who are actually judicial officers (civil servants) employed at the courts on a permanent basis. In order to speed up the enforcement procedure, the service of documents in all civil court cases has been entrusted to (private) bailiffs since 1996, so that judicial officers can focus on the enforcement of judgments.

In order for an enforcement procedure to commence, there must be a court judgment, delivery of the judgment that creates an obligation, and refusal or failure of the defendant to pay the sum awarded. Regarding the procedures to enforce a (domestic) judgment given by the courts, a judgment becomes automatically enforceable on issue, without the need to be registered or for any further measures to be taken, apart from the enforcement procedure that will follow. In case of an enforcement order based on a judgment from a foreign country, the enforcement criteria are usually specified in the corresponding agreement. A usual condition in this case is that the defendant must have been duly notified of the proceedings which took place against him/her in the foreign country.

When it comes to the enforcement procedure of an EU judgment in Cyprus, the Recast Brussels Regulation applies to judgments issued in EU member states on or after the enactment of the Regulation (January 10th, 2015). It is well known that the Recast Brussels Regulation provides for a simplified, nearly automatic, procedure for enforcement (*exequatur*), entailing a check of the documents attached to an *ex parte*

¹ See, European Judicial Network (in civil and commercial matters), Procedures for enforcing a judgment – Cyprus, https://e-justice.europa.eu/content_procedures_for_enforcing_a_judgment-52-cy-en.do?member=1, last update: 15.06.2020.

² See *Christoforou v. Cooperative Credit Society of Akaki* [2008] 1 CLR 708 (in Greek), *National Bank of Greece SA v. Constantinou* [2000] 1 CLR 1034 (in Greek).

³A. Emilianides. 'Cyprus'. In *International Encyclopaedia of Laws: Civil Procedure*, edited by Piet Taelman. Alphen aan den Rijn, NL: Kluwer Law International, 2020, p.236.

application for recognition. Judgments issued before the enactment of the Recast Brussels Regulation are governed by Brussels Regulation (EC) 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The Recast Brussels Regulation does not apply to matters relating to the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship or a relationship deemed to have comparable effects to marriage, bankruptcy proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings, social security, arbitration, maintenance obligations arising from a family relationship, wills and succession. More specifically, a judgment delivered in a member state can be recognised in the other member states without any special procedure being required (Article 36 of Recast Brussels Regulation). The party wishing to invoke in a member state a judgment issued in another member state must produce a copy of the judgment that satisfies the conditions necessary to establish its authenticity and the certificate issued by the court of origin in accordance with the form set out in Annex I (Articles 37 and 53 of the Recast Brussels Regulation). The party against whom enforcement is sought can appeal against the declaration of enforceability within one month (or two months if that party resides abroad) from service of the declaration. The procedure provided in the Recast Brussels Regulation must be followed. In addition, in the framework of the EU, enforcement of judgments can also be achieved under Regulation (EC) 805/2004 creating a European Enforcement Order for uncontested claims.

Items or assets subject to enforcement may include bank accounts, movable property, shares, registered vehicles, immovable property and other items. Very personal items which are essential for survival or for the pursuit of the defendant's occupation are excluded. All undisputed orders become final and have the force of a court judgment.

A judgment imposing enforcement measures is valid for six years from the date of delivery. In case of non-enforcement within that period, the judgment may be renewed by the court pursuant to Rule 40D.8 of the Civil Procedure Rules.

The persons against whom the enforcement measures are applied, meaning the debtor and any third party, are obliged to comply with the judgment ordering the enforcement measure. If the debtor refuses or neglects to carry out the acts/actions specified in the order imposing the enforcement measures, an imprisonment procedure may be initiated against him/her for disobeying a court order. Regarding, garnishment to seize (certain) bank accounts, the bank on which a garnishment order is served is required to freeze the relevant account, unless it has reason to contest this. In this case, it has to appear before the court which delivered it and provide reasons why this should not apply.

In the framework of the debtor's protection provisions, any personal belongings that are essential to survival or to the pursuit of a person's profession cannot be subject to enforcement. Moreover, where the debtor is a state or public service, objects and equipment intended for a purpose essential for the general public, including equipment belonging to the armed forces and security forces, objects of artistic, archaeological, cultural, religious and historical importance and foreign exchange reserves, are exempt from enforcement.

The judgment creditor has several options on how to proceed with execution of the judgment. Under the Civil Procedure Law (Cap. 6), every court's judgement ordering the payment of money can be enforced through all or any of the following methods: (i) a writ of execution for the sale of movables, (ii) a writ for sale of immovable property or registration of a charging order (memo) over the property, (iii) a writ of sequestration of immovable property, (iv) a garnishee order. Under this method of execution, the judgment is enforced through the attachment of debts due or accruing due to the judgment's debtor that form part of their property available in execution. As a first step, the court issues a garnishee order, under which the garnishee is forbidden from alienating in any way the amount determined in the order. The court can issue the writ of attachment if a third party keeps assets on behalf of the judgment debtor, e.g., a bank where an account in the name of the judgment debtor is kept or is a debtor of the judgment debtor (Civil Procedure Law Section 73). Through this process, the court has power to order a third party not to alienate in any way the amount determined in the order. The garnishee or the judgment debtor can file an opposition to such an order. After hearing the respondents, the court can order the garnishee to pay directly to the judgment creditor the debt due or accruing due to the judgment debtor, or as much of it as may be sufficient to satisfy the amount of the judgment.

(v) In addition, an order to the judgment debtor to make payments over the debt on a monthly basis is possible. The amount and dates of the payments will be determined by the court according to the financial position of the judgment debtor.

(vi) A writ of possession, ordering property to be delivered to the judgment creditor is another enforcement method along with (vii) a writ of delivery, ordering movable property to be delivered to the judgment creditor. (viii) Injunctions and other orders encumbering the interest of the judgment debtor on shares and other stock owned (Encumbering Orders Law 31(I)/1992) can also be issued. Furthermore, (ix) bankruptcy or (x) liquidation proceedings can be initiated against a judgment's debtor. The last two measures are not strict enforcement methods in the sense that they do not guarantee payment of the judgment's debt, but they are often used as a pressure mechanism to the debtor. A judgment creditor has the opportunity to enforce his/her judgment by resorting to multiple measures of execution, without this being abusive as it was held⁴.

A judgment or order for the recovery or delivery of possession of any immovable property may be enforced by a writ of possession directing the Judicial Officers to put the judgment creditor in possession of the property. A judgment or order for the delivery of movable property may be enforced by a writ of delivery directing the Judicial Officers to take such movable property and deliver it to the judgment creditor. Where a judgment or order of a Court for the recovery or delivery of possession of any immovable property is sought to be enforced by a writ of possession, the writ may be issued, pursuant to Order 43A of the CPR (Writ of possession), by leave of the Court obtained on an ex parte application by the plaintiff supported by an affidavit. In order for a leave to be given it must be shown that all persons in actual possession of the whole or any part of the property have received such notice of the proceedings as may

⁴ Thrasou Bros and Associates v. Vasilara and another [2008] 1 CLR 830 (in Greek).

be considered sufficient to enable them to apply to the Court for relief or otherwise⁵.

When it comes to the enforcement of a judgment or order for the recovery or delivery of any movable property by writ of delivery, the Court may, upon an ex parte application of the plaintiff accompanied by a copy of the judgment or order sought to be enforced⁶, pursuant to Order 43B of the CPR (Writ of delivery), issue a writ for the delivery of the property. Every writ of possession or writ of delivery shall be passed to a Judicial Officer for enforcement.

According to Order 40 (1) of the CPR, where any person is by any judgment or order directed to pay any money, or to deliver or transfer any movable or immovable property to another person, it shall not be necessary to make any demand thereof, but the person so directed shall be bound to obey such judgment or order upon being duly served with the same without demand. Moreover, it is provided that where any person who has obtained any judgment or order upon condition does not perform or comply with such condition, he/she shall be considered to have waived or abandoned such judgment or order to the extent that it is beneficial to him/her⁷. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he/she is entitled to relief, apply to the Court for leave to issue execution against such party⁸.

Writ of execution

The Court issues a writ of execution, if the right to relief has arisen pursuant with the terms of the judgment and the proper time has lapsed, or, if necessary, the proper leave has been given to entitle the judgment creditor to execution. A writ of execution shall be sealed and shall bear the date on which it is issued, stating the amount and costs of execution. Every writ of execution expires and ceases to be in force as soon as it is returned into the Court. Of course, if the judgment or order remains unsatisfied, a new writ may be issued. No execution shall be allowed after a period of ten years from the date the judgment or order was issued, or if there has been a change of the parties who are entitled to execution, unless the Court grants leave for execution⁹. The Court shall grant the leave if satisfied that the applicant has taken the necessary measures for execution during the ten-year period and is still entitled to execution¹⁰. The application for leave must justify the delay and if such delay is not convincingly justified, the Court shall not grant the leave¹¹.

⁵ Christofi and others v. Iacovidou [1986] 1 CLR 236.

⁶ Kypriaki Eteria Metaforon Ltd v. Geo Pavlides & Araouzos Ltd [1979] 1 CLR 269.

⁷ A. Emilianides, Civil Procedure in Cyprus, p.237.

⁸ Ibid.

⁹ Yerolemides v. Municipality of Nicosia [1985] 1 CLR 104.

¹⁰ Stavrinos v. Bank of Cyprus Public Company Ltd, Civil App. 367/12, Judgment of 17 Jan. 2019 (in Greek), Astrapi Commission Agents Ltd and others v. Bank of Cyprus Public Company Ltd, Civil App. E107/13, Judgment of 21 Feb. 2019 (in Greek).

¹¹ Cooperative Credit Society of Kontea v. Michael and others [2012] 1 CLR 1604, Tryfonos v. Bank of Cyprus Ltd, Civil App. 206/2012, Judgment of 26 Oct. 2017 (in Greek), Ktorides v. Alpha Bank Cyprus Ltd [2014] 1 CLR 1173 (in Greek), Marfin Popular Bank Co Ltd v. PK and others, Civil App. 219/12,

Stay of execution

The Court has the power to stay execution as it shall think appropriate under the circumstances. Stay of execution after the judgment is given shall be granted only if there is an arguable case for relief and exceptional circumstances sufficient to render it arguable that such stay should be granted¹². Any party against whom a judgment has been given on an order has been made has the opportunity to apply to the Court for a stay of execution or other relief only upon the ground of facts¹³ which have arisen too late to be pleaded in the framework of the preceded proceedings.

Auctions

The conduct of public auctions for the sale of mortgaged property is carried out in accordance with the provisions of the Transfer and Mortgaging of Land Law 9/1965, as amended by Law 142 (I)/2014 and published in the Official Gazette of the Republic on September 9, 2014 and a Ministerial Decree Number 346 published in the Official Gazette of the Republic (Number 5190) on 1.11.2019. Article 44Z of the Transfer and Mortgaging of Land Law provides for the process of selling a property by auction¹⁴. The creditor (usually banks, credit institutions etc.) can conduct the auction electronically as an e-auction and this happens in the vast majority of cases¹⁵. Sales of real estate by credit institutions, via e-auctions, are starting again in October 2020 after their 6-month suspension that had been decided due to the coronavirus pandemic¹⁶. ACB E-AUCTIONS Ltd acts as administrator of the Electronic Auction System according to the provisions of the above law and Decree¹⁷. Public auctions for the sale of property which is not mortgaged are carried out through the Department of Land and Surveys (Cadastre)¹⁸.

In practice, the system of execution of judgments has proved to be totally inefficient as it is reported from both lawyers and judicial officers. The majority of the writs for sale of movable property return unexecuted and sale of immovable property not only would take more than a decade to complete and many times it would actually prove impossible¹⁹. Moreover, there are several legislative gaps which cause significant legal and practical obstacles in the enforcement of judgments, such as the fact that the banks are not obliged by law to inform the judgment creditor (via his/her lawyer) regarding the bank accounts of the debtor and their content. Similarly, the lawyers of judgment creditors do not have access to the public registry of vehicles (Ministry of

Judgment of 31 Jan. 2019 (in Greek), Bank of Cyprus Public Company Ltd v. Efstathiou and others, Civil App. 47/13, Judgment of 10 Jun. 2019 (in Greek).

¹² Nicolaou [2000] 1 CLR 1422 (in Greek); A. Emilianides, Civil Procedure in Cyprus, p.238.

¹³ Not on the ground of new judgments issued by other Court on similar issues, or subsequent legislative amendments, see Attorney-General [1999] 1 CLR 2121(in Greek).

¹⁴ See http://www.moi.gov.cy/moi/auctions.nsf/home_en/home_en?opendocument.

¹⁵ See http://www.moi.gov.cy/moi/auctions.nsf/home_en/home_en?opendocument.

¹⁶ See <https://www.brief.com.cy/analyseis/restart-ekpoiseonsto-sfyri-126-akinita-eu205-ek-se-10-meres>.

¹⁷ See <https://www.eauction-cy.com/#AboutUs>.

¹⁸ See <https://portal.dls.moi.gov.cy/en-us/Pages/The-Department-of-Lands-and-Surveys-Web-Portal.aspx>.

¹⁹ A. Emilianides, Civil Procedure in Cyprus, p.236.

Transport and Communications and Works, Department of Road Transportations) on the basis of the protection of personal data. In this framework, the observation that *“The system is in an immediate need of reform”*²⁰ is more than accurate and right.

I.1 Legislation affecting civil enforcement

The relevant legislative framework on enforcement in the Republic of Cyprus is comprised of:

- (i) the Law on Enforcement Procedure, Cap. 6²¹;
- (ii) the Civil Procedure Rules issued by the Supreme Court and securing measures, Orders 40-47 of the CPR²²:

Order 40: Execution in general

Order 41: Execution by seizure and sale of movable property

Order 42: Execution by sale of immovable property

Order 42A: Attachment and Sequestration

Order 43: Execution by attachment of debt or property

Order 43A: Writ of possession

Order 43B: Writ of delivery

Order 44: Bailiffs

Order 45: Receivers

Order 46: Enforcement of Judgments in newspaper libel actions

Order 47: Enforcement of extra-judicial orders;

- (iii) Law 142(I)/2014 which amended the Transfer and Mortgaging of Land Law 9/1965 (Article 44Z) and authorized creditors of mortgaged property (mostly credit institutions) to hold private (in vast majority electronic) auctions for sale of mortgaged land without the need of previously securing a judicial decision;
- (iv) Ministerial Decree Number 346 published in the Official Gazette of the Republic (Number 5190) on 1.11.2019 regarding e-auctions according to article 44Z of the Transfer and Mortgaging of Land Law;
- (v) Judgments of Foreign Courts (Recognition, Enforcement and Execution) Law 121/2000.

I.2 Enforceable titles

I.2.1 Documents considered as enforceable titles

²⁰ Ibid, p.237.

²¹ “Περί Πολιτικής Δικονομίας Νόμος Κεφ. 6”. The measure of imprisonment of the judgment debtor was abolished by Law 134(I)/1999 and 66(I)/2004 pursuant to the Fourth Protocol of the ECHR as ratified in Cyprus by Law 52/1989, which provides that no one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

²² See <http://www.cylaw.org/cpr.html>.

- Court judgments and settlements (arising from reconciliation);
- Enforceable decisions in both administrative and misdemeanour proceedings;
- Arbitral awards;
- Municipal administrative acts.

I.2.2 Documents considered as enforceable titles subject to certain conditions

- Agreement after a (successful) mediation procedure;
- Foreign court decisions and settlements;
- Foreign arbitral awards;
- Mortgage agreements;
- Administrative acts pertaining to satisfying pecuniary claims issued by other administrative bodies;
- Invoices in utility cases;
- Cheques;
- Bills of Exchange.

I.3 Service of documents to parties and third parties

I.3.1 Legal basis of service and legal capacity to serve documents

An “action” is defined in the CPR as a civil proceeding commenced by writ or in such other manner as may be prescribed by any law or Rules of court. This is consistent with the interpretation of an ‘action’ in Courts of Justice Law 14/60. In any case, the term ‘action’ is not restricted to proceedings commenced by a writ, but may include proceedings commenced by an application or in any other manner as well²³. Order 9 of the CPR provides for the parties in an action²⁴. Any actions where the plaintiff is the Republic of Cyprus should be filed in the name of the Attorney-General of the Republic by virtue of section 57 of the Courts of Justice Law 14/60 and to the extent that there are no specific provisions to the contrary in any given legislation. Similarly, any actions where the Republic is a defendant should be filed against the Attorney-General of the Republic. There are no special procedural privileges that the Republic should enjoy as a party in a civil case²⁵.

A party is normally represented by an advocate. Natural persons may, however, opt to represent themselves. Legal persons, should always be represented by an advocate and cannot be represented by their directors or other representatives²⁶. Advocates have the authority to represent their client and act on their behalf, including the right

²³ *Petsas v. Pavlides* [1980] 1 CLR 158, *Ioakeim and another v. Cyprus Popular Bank Ltd* [2003] 1; A. Emilianides, *Civil Procedure in Cyprus*, p.83. CLR 198 (in Greek).

²⁴ See A. Poetis, ‘Parties’ *Cyprus Law Review* 9 (1985): 1468–1478.

²⁵ A. Emilianides, *Civil Procedure in Cyprus*, p.88.

²⁶ *Lindos Constructions Ltd v. Director of Social Security Department* [1993] 1 CLR 17 (in Greek).

to settle the action²⁷. If the plaintiff is represented by an advocate, the writ, when sealed, should be accompanied, by a written retainer.

There is no all-encompassing definition adopted in the CPR for either a claim or defence²⁸. A claim may be advanced on any grounds allowed by law, e.g., a claim may be brought for a debt or liquidated demands, a request for repossession of land, damages in respect of a tort etc.

There are two forms of writ of summons: a generally indorsed writ and a specially indorsed writ. A generally indorsed writ shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, but it shall not be essential to set forth in such indorsement the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself/ herself entitled. A specially indorsed writ, pursuant to Order 2, Rule 6 of the CPR, is a writ which is indorsed with a statement of the claim, or of the remedy or relief to which the plaintiff claims to be entitled. A specially indorsed writ is particularly used in cases where the plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant (arising for instance upon a bond or contract, a bill of exchange, a promissory note, a cheque, or a guarantee where the claim is in respect of a debt or liquidated demand) or to recover possession of immovable property against the tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for nonpayment of rent, or against persons claiming under such tenant²⁹.

When presented for sealing, every writ of summons shall contain the name of the Court and the year in which the action is being instituted, the full name and surname of the plaintiff and the defendant, the full address and occupation of the plaintiff and, in so far as they can be ascertained, the address of service of the defendant and the plaintiff within the municipal limits of the town in which the registry, in which the writ is being filed, is situated. The writ shall be signed by the plaintiff or their advocate³⁰. The writ shall further contain the scales of costs of the action pursuant to the approved scales of costs issued by the Supreme Court³¹.

A writ shall be in force for no more than twelve months from the day of its issue including that day by virtue of Order 4 of the CPR. The twelve-month period applies equally to defendants situated out of the jurisdiction³². Service to all defendants should take place before the expiry of the writ. If service is not effected, then the writ

²⁷ Charalambous [1985] 1 CLR 746, Kalamaras v. Attorney-General [1989] 1 CLR 343 (in Greek).

²⁸ *ibid*, p.98.

²⁹ *Ibid*, p.98.

³⁰ A. Emilianides, *Civil Procedure in Cyprus*, p.105.

³¹ The scales refer to the amount of the value of the disputed claim and are as follows: (a) below EUR 500, (b) EUR 500 – EUR 2,000, (c) EUR 2,000 – EUR 10,000, (d) EUR 10,000 – EUR 50,000, (e) EUR 50,000 – EUR 100,000, (f) EUR 100,000 – EUR 500,000, (g) EUR 500,000 – EUR 2,000,000 and (h) above EUR 2,000,000. The scale of the action is not part of the claim itself, but its purpose is a practical one, having to do with the payment of the relevant fees, the determination of costs and the determination of the jurisdiction of the Court.

³² *Niki Christoforou Cosmetics Ltd v. Stylianou and another* [2005] 1 CLR 273 (in Greek).

expires and the action may not continue further³³. If any defendant named in the writ has not been served, the plaintiff may, before the 12 months expire, apply for an order to renew the writ. The Court, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reasons³⁴, may order that the writ be renewed for six months from the date of such renewal inclusive, and so from time to time during the currency of the renewed writ. A writ so renewed shall remain in force and be available to prevent the operation of any law whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons. After a writ is renewed every office copy used for service shall bear a copy of the words on the original writ indicating that it has been renewed.

All defendants named on a writ must be served with a copy of the writ by a bailiff, pursuant to Order 5 of the CPR. Service of documents is governed by the CPR, namely, **Orders 5, 5A, 5B, 6, 50 and 51**³⁵. Service through a bailiff is the responsibility of the party who selects a certain bailiff. Duplicates of the writ shall be used for the affidavit of service³⁶. Proper service of the writ is essential as it alerts all those concerned with the judicial proceedings³⁷ and especially because every person has a right to become aware of judicial proceedings that concern them and to be heard in such proceedings³⁸. The affidavit of service, having attached thereto as an exhibit, a duplicate of the copy of the writ of summons served, shall be sworn by the bailiff and filed within seven days after service. The service shall be effected by leaving the copy with the person to be served. If this person is not found at his/her house or at his/her usual place of employment, the service shall be deemed to be effected if the copy is left: (a) with any member of his/her family of “apparently 16 years old and upwards” then in his/her lands thereof, or (b) with any person “apparently of such age” and in charge of the place of his/her employment. A close relative might, depending on the circumstances, be considered as a member of the family of the defendant for the purposes of service³⁹. Service may be effected at any time of the day or night, in any place and on any day of the week⁴⁰. Where service is effected by leaving the copy with a person other than the person to be served, the affidavit of service should state that the person to be served was not found at his/her house or at his/her usual place of employment⁴¹. Where service of documents is effected in places other than the place

³³ Universal Export and Import SA v. Mavrotissa and others [1989] 1 CLR 176, Blue Island Fish Farming Ltd v. Lefkaritis Bros Maritime Ltd and others [2004] 1 CLR 2033 (in Greek).

³⁴ Nigerian Produce Co Ltd and another v. Sonora Shipping Company Ltd and another [1979] 1 CLR 395, The Cyprus Potato Marketing Board v. Thetis Shipping Co Pte Ltd and another [1988] 1 CLR 397.

³⁵ The CPR are freely available in English with some additions in Greek at: <http://www.cylaw.org/cpr.html>.

³⁶ A. Emilianides, Civil Procedure in Cyprus, p 106.

³⁷ Finance Organization of the Bank of Cyprus Ltd v. Michael [2003] 1 CLR 1044 (in Greek).

³⁸ Finance Organization of the Bank of Cyprus Ltd v. Michael [2003] 1 CLR 1044 (in Greek), Global Education Counseling Ltd v. Khan [2013] 1 CLR 2203 (in Greek), Holy Metropolis of Limassol v. Chr. P. Michaelides Estates Ltd [2002] 1 CLR 43 (in Greek); A. Emilianides, Civil Procedure in Cyprus, p 106.

³⁹ Theodorou and others v. Cooperative Credit Society of Makrasyka [2003] 1 CLR 1305 (in Greek). See also Orams and another v. Apostolides [2006] 1 CLR 1402 (in Greek); A. Emilianides, Civil Procedure in Cyprus, p.107.

⁴⁰ A. Emilianides, Civil Procedure in Cyprus, p.107.

⁴¹ See further in detail, A. Emilianides, Civil Procedure in Cyprus, p.107-110.

of residence, such as a place of business, the copy left with the individual in charge of the place where the person to be served is employed, shall be left during the business hours and place of employment.

If service is not proper, then the Court has an obligation to set aside the service and any proceedings following from such service⁴².

In case a writ is to be served out of Cyprus, then the leave of the Court is required for it to be sealed, pursuant to Order 2, Rule 2 of the CPR⁴³. No leave is necessary, though, if there are also defendants who are to be served in Cyprus. Service outside of jurisdiction is effected by a double registered letter, or by hand via a private local bailiff or through the diplomatic channels stated in a Bilateral Agreement signed between Cyprus and the country concerned, assuming such an agreement exists⁴⁴. If the defendant is not a Cypriot, the notice of the writ and not the writ itself shall be served out of jurisdiction as a matter of interstate courtesy⁴⁵.

The Service of Documents Regulation (1393/2007)⁴⁶ is directly applicable in Cyprus and supersedes any orders of the CPR which are inconsistent with it⁴⁷. As a result, service within the EU which is consistent with the Service of Documents Regulation, even if it refers to the service of the writ and not the notice of the writ, may be declared as good service⁴⁸.

There is no need for the notice to include all the text of the writ, but it should include the action or procedure number, the Court where the action or procedure is pending, the parties and, in a concise manner, the nature of the dispute and the remedies requested. Moreover, it should set out the period during which the party should file an appearance or objection and the date and time of appearance before the Court. Additionally, the notice shall also contain a direction that, if the defendant does not enter an appearance within the prescribed time, notice of any application in the action may be given by posting an office copy of the notice on the Court notice board.

A defendant shall enter their appearance (in form of a written memorandum, which shall be delivered at the plaintiff's address for service) in the Registry out of which the writ of summons was issued, pursuant to Order 16, within ten days from service of the writ.

Finally, there are no provisions in the legislation regarding e-form of service of documents.

1.3.2 Contents of the documents to be served

⁴² Giorgallides v Christou [1997] 1 CLR 247.

⁴³“2. No writ of summons for service out of Cyprus, or of which notice is to be given out of Cyprus, shall be sealed without the leave of the Court or a Judge”.

⁴⁴ A. Emilianides, Civil Procedure in Cyprus, p.109.

⁴⁵ Tyletypos AE v. Mega Channel Management Ltd [2004] 1 CLR 1863 (in Greek).

⁴⁶ Regulation (EC) 1393/2007 of the European Parliament and of the Council of 13 Nov. 2007 on the Service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

⁴⁷ VKC Quality Investments Ltd v. Shammusi Deen Alabi, Civil Appeal 113/2012, Judgment of 4 Mar.2014 (in Greek), Alpha Bank Cyprus Ltd v. Si Senh Dau, Civil Appeal E23/2013 and others [2013] 1 CLR 1935 (in Greek).

⁴⁸ Alpha Bank Cyprus Ltd v. Si Senh Dau, Civil Appeal E23/2013 and others [2013] 1 CLR 1935 (in Greek).

The documents to be served must comply with a special format common to all Judicial Officers. They must be served as they are and Form 5 (Affidavit of Service)⁴⁹ must be filled out.

If the documents to be served initiate proceedings, then to be valid they must contain the following compulsory particulars:

- Details of the Jurisdiction (e.g., Name, Address...);
- The date, time and place of the court hearing if it is fixed;
- Factual and legal elements on which the claim is based;
- The amount of the claimed debt, interest, period for which the interests are owed and the interest date in cases of monetary claims;
- Prayers – what the plaintiff is seeking by initiating proceedings.

I.3.3 Service upon the addressee or other persons

I.3.3.1 Natural person

The document can be served to the addressee. In case of natural persons it can be served at their place of domicile or residence, in a public place, in a private place without requiring the consent of the owner of the premises, or at the work place of the debtor without requiring the consent of the owner of the premises. The document can be handed to any able person at the domicile of the addressee who has accepted receipt of the document. The individual -member of the family, can be one's spouse, child "apparently" over the age of 16 when residing with the addressee, parents of the addressee if residing together, cousin of the addressee if residing together, grandparents of the addressee if residing together, immediate in laws (parents and brother/sister) if residing together or the caretaker of the property if residing together. The affidavit of service should state that the person to be served was not found at his/her residence or place of employment⁵⁰. Any recipient who is not the addressee must accept the document and indicate their name, address and relationship to the addressee.

I.3.3.2 Legal entity

In the absence of any statutory provision regulating service of process upon corporate bodies, service on the president or other head officer, or on the treasurer or secretary of such body, or delivery at the office of such body, shall be deemed good service as per Order 5, Rule 7. In the case of any company not established in Cyprus, the service may be effected at its place of business in Cyprus, or if there is no such place, with any person in Cyprus who appears to be authorized to transact business for the company in Cyprus, and such leaving of the copy shall be deemed good service unless the Court otherwise orders.

Regarding companies, the provisions of Order 5 Rule 7 are supplemented by section 372 of the Companies Law, Cap. 113. Pursuant to section 372 of Cap. 113, service at the registered office of the company is in principle a proper service. More specifically,

⁴⁹ Available at: <http://www.cylaw.org/cpr.html>.

⁵⁰ A. Emilianides, Civil Procedure in Cyprus, p.107.

section 372 provides that a document may be served to a company by leaving it or posting it to the registered office of the company⁵¹.

Where persons are sued as partners in the name of their firm, the writ shall be served either upon any one or more of the partners or at the principal place of the business of the partnership upon any person having at the time of service the control or management of the partnership business there. Such service shall be deemed good service upon the firm so sued, whether any of the members thereof are out of Cyprus or not. In the case of a partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action, the writ shall be served upon every person in Cyprus sought to be made liable. Where a writ is issued against a firm, every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he/she is served as a partner, or as a person having the control or management of the partnership business, or in both capacities. In default of such notice, the person served shall be deemed to be served as a partner⁵².

1.3.4 Domicile

If the document is unable to be served whilst the addressee or other person's domicile is confirmed, the party seeking to serve must file an application of substitute service. So, substitution of service is possible after an order from the Court if for any reason it is not possible to effect service promptly. This may include service on another person ordered by the Court, or effecting service by posting the writ on the door of the house or place of work of the defendant, or in any other way that is reasonably expected to reach the defendant⁵³. Furthermore, the Court may order substitute service of the notice of service in any manner it considers as fair and just, including publication in newspapers, or any electronic means, or by other reasonably available technological means, including email or even Facebook⁵⁴. The party must evidence that the service method is highly likely to result in receipt by the addressee. If there is no longer a known domicile, residence or workplace in the country then the Judicial Officer must send a letter to the addressee at the last known address in such a case. The probative value of the service of documents arises once the Judicial Officer or Private Bailiff files an affidavit of service after the service has been effected as per the CPR. These include documents initiating proceedings, documents relating to the attachment of the debtor's goods or summons.

1.4 Legal remedies, appeal and objection

A judgment or order is enforceable upon its delivery. Depending on the case, it is possible to bring legal challenges (appeal) against the decision granting an enforcement measure, e.g., in order to suspend enforcement or to cancel an entry in

⁵¹ *Maxana Oil Ltd v. Poltava Petroleum Company* [2002] 1 CLR 834 (in Greek). See, however the case of *Holy Metropolis of Limassol v. Chr. P. Michaelides Estates Ltd* [2002] 1 CLR 43 (in Greek), in which the Supreme Court held that the service to the registered office of the company was not a proper one, since the bailiff left the writ in the registered office of the company without any indication that it had been received. See further analysis in A. Emilianides, *Civil Procedure in Cyprus*, p.108.

⁵² A. Emilianides, *Civil Procedure in Cyprus*, p.89.

⁵³ *Fragkeskou and others v. Gregoriou* [2000] 1 CLR 1765 (in Greek), *Karim v. Konidaris* [1994] 1 CLR 36 (in Greek).

⁵⁴ A. Emilianides, *Civil Procedure in Cyprus*, p.108.

the register. The deadline for filing an appeal does not by itself suspend enforcement. The appellant needs, in addition, to file a reasoned request for this purpose. When it comes to acts not issued by a court, e.g., an arbitral award, these are not enforceable on their own, but they can become enforceable after they are declared so by a court.

In order to object either the enforcement decision itself or the activities of the Judicial Officer, the objection must take place within 14 days of the issuance of an interlocutory order and 6 weeks from the day of issuance of any other judgment. In the case of the invalidation or suspension of an Order of Sale of a Property, it must be filed within 7 days after the foreclosure. Appropriate evidence must support the objection. The objection can be presented by a person other than the debtor if they claim to possess a right to the object of enforcement that is incompatible with the enforcement against that object. In such a case, this obstructs the commission of enforcement and settlement of the credit for the enforcement creditor.

I.4.1 Competent court

The court in the territory in which the movables or immovable items that are the object of enforcement are located, or the court of the debtor's domicile are the competent courts in cases of objections. The Court then instructs the parties on the time limit within which the response to the objection must be filed. A Court however must decide on the objection no later than 3 months from the rejection. Once a decision has been made, an appeal on the decision is not possible.

I.4.2 Limitations on objections

Objection is not possible in the following instances:

- i)** If the document, based on which the enforcement decision or enforcement writ has been issued, does not have an enforceable title or any feature of enforceability;
- ii)** If the enforcement decision is overruled, annulled, amended or in other way invalidated;
- iii)** If the enforcement decision in another way has lost its effect or has been concluded as not holding legal effect;
- iv)** If the enforcement creditor is not authorised to request enforcement on the basis of the enforcement document, or authorized to request the enforcement against the debtor;
- v)** If the conditions of the enforcement document have not been met, unless otherwise foreseen by the law;
- vi)** If the court that has issued the enforcement decision is not the competent court; or
- vii)** If the judicial officer who has issued the enforcement writ is not competent.

I.5 Postponement, suspension and termination of enforcement

I.5.1 Postponement

The request for postponement is within the competence of the Court and the Judicial Officer is therefore unable to partially or entirely postpone the enforcement upon the

request by the creditor, the debtor or a third party. The Court must decide on the request for the postponement within a reasonable time; no maximum time is set as this remains at the discretion of the competent Court. Once postponed, the enforcement cannot be resumed before the expiration of the period for postponement.

I.5.2 Suspension

Ex Officio suspension of enforcement proceedings is possible in the following circumstances:

- (i) When the debtor or their assets cannot be located for purposes of notification or sequestration of assets;
- (ii) When the judicial officer has attempted to enforce the decision without producing the result intended by either of those actions;
- (iii) When the address of the debtor listed in the enforcement proposal is proved to be incorrect, while the creditor is unable to demonstrate the accuracy of the address.

No maximum time exists for such suspension.

I.5.3 Termination

Termination of the enforcement procedure occurs:

- (i) After the settling of the creditor's credit;
- (ii) If the enforcement document is annulled, amended, revoked, invalidated or in any other manner rendering it ineffective;
- (iii) If a third person fulfils the obligation in benefit of the creditor instead of the debtor; or
- (iv) When it has become impossible to be enforced.

I.6 Counter enforcement

No counter enforcement procedure exists in the legal order of the Republic of Cyprus.

I.7 Objects and exemptions on enforcement

Movable and immovable property are subject to enforcement. More specifically, section 14 of the Civil Procedure Law, Cap. 6 provides that any judgment or order of the Court directing payment of money may be carried into execution by seizure and sale of movable property, sale of, or making the judgment a charge on immovable property, sequestration of immovable property, attachment of property or examining the judgment debtor before the Court so as to issue an order for payment of instalments or for setting aside fraudulent acts⁵⁵.

Basic necessities are exempted from enforcement. Section 16 of Cap. 6 sets out a list of necessities which may not be taken in execution by sale of movables. After successive amendments, the above list is quite extensive. Thus, this significantly

⁵⁵ A. Emilianides, *Civil Procedure in Cyprus*, p.236.

restricts the ambit and efficiency of execution by sale of movables⁵⁶. Items exempted from execution by sale of movables include, inter alia, clothing of the judgment debtor and his/her family, as well as cooking utensils, furniture, equipment ranging from refrigerator, television and radio to computers, air-conditioners, kitchen and medical equipment, the lowest value vehicle necessary for the transportation of the judgment debtor and his/her family⁵⁷, books, tools, vessels and similar items necessary for the exercise of the profession, trade or occupation of the judgment debtor of a value not exceeding EUR 10,000, necessary agricultural equipment or machinery or animals of a value not exceeding EUR 20,000, as well as the food required to feed such animals for six months, provisions for the judgment debtor and his/her family for three months⁵⁸. Where the judgment debtor is a farmer or a breeder, a sufficient number of things and animals are excluded from execution by sale of movables for the continuation of his/her work. If the judgment debtor is a public service or state organ, including legal persons of public law and authorities of local administration, there can be no execution by sale of movables of objects, equipment or vehicles necessary for the unfettered function of such public service or state organ, or which are of material importance for society, including equipment belonging to the armed forces and security forces, artefacts of artistic, archaeological, cultural, religious or historical importance, or bonds, reserves, securities as well as deposits which aim to cover expenses included in the state budget⁵⁹.

In case of enforcement against wealth of foreign countries or international organizations, special permission must be requested from the competent Court by the Judicial Officer.

1.8 (Court) penalties and fines

In case of any act or omission violating the legal provisions of the enforcement law or a violation of the requests of the Judicial Officer by the debtor or other person, a fine can be imposed through a court decision repeatedly if necessary. In cases of noncompliance, the fine can result in imprisonment.

1.9 Access to information on the domicile and assets of the debtor

Only the creditor who has commenced the enforcement proceedings has access to information on the debtor's assets. The Judicial Officer in charge of proceedings does not have access either physically or digitally to information on the debtor's assets but does have access to the information in the below table.

Banks, land registries, courts and creditors must provide this information to the Judicial Officer if with the relevant justification (i.e., enforcement title, justification of his/her role as Judicial Officer, upon presenting a Power of Attorney to proceed with the enforcement). In practice this does not seem to work effectively. The Judicial Officer has an obligation of confidentiality upon access to the information. No

⁵⁶ Ibid, p.239.

⁵⁷ In practice, this results to the fact that if the judgment debtor owns one vehicle of high value, e.g. a car necessary for his/her transportation or his/her family, this vehicle is exempted from execution even if it is of high value.

⁵⁸ Ibid, p.236.

⁵⁹ Ibid.

measures of disciplinary liability or sanctions arise if this duty is breached.

	Creditor	Judicial Officer
Address(es)	✓	
Date and place of birth	✓	
Telephone number	✓	
Nationality	✓	
E-Mail address(es)	✓	
Workplace and employer	✓	
Social security number	✓	
ID number for legal persons	✓	
Amount of his/her salaries	✓	
Information on his/her bank accounts	✓	
Position of his/her bank accounts	✓	
Amount of tax paid	✓	
Movable tangible goods	✓	
Movable intangible goods	✓	
Real estate rights	✓	
Specific goods such as vehicles, ships, aeroplanes, etc.	✓	

I.9.1 Statement of Assets

The creditor is entitled to request such declaration throughout the enforcement procedure. This then places an obligation on the debtor to declare his/her assets to the Court as part of the enforcement process for certain information and under certain conditions. Of course, this process may cause delays. In case of refusal by the debtor or in the case of incorrect statements being made, sanctions are present through the enforcement procedure.

More specifically, sections 82–86 of Cap. 6 provide for the examination of the judgment debtor by the Court. Where the judgment debt remains wholly or in part unsatisfied, whether a writ of execution has been issued or not, the judgment creditor may apply to the Court so that the judgment debtor is examined with regards to⁶⁰:

- (i) their financial ability so that it is determined whether they can pay monthly instalments,
- (ii) any beneficial interests they have on any amount of money, insurance for money, goods or other movable property under the control or

⁶⁰ Ibid, p.243.

custody of a third person, or debts of a third person towards them so that a writ of attachment can be issued or

- (iii) any donation, delivery or transfer of assets or any charge or concealment of assets that hindered the creditor in collecting the judgment debt or part thereof.

The Court may issue one of the following orders⁶¹:

- (i) order the judgment debtor to pay the debt by monthly instalments,
- (ii) order that the income of the judgment debtor is deducted,
- (iii) set aside fraudulent transfers or charges,
- (iv) prohibit any alienation, disposition or charge of the judgment debtor's property and
- (v) issue a writ of attachment.

Moreover, the Court may order the judgment debtor, being either a natural or a legal person, to submit an affidavit to the Court and fully describe the property in which he/she has any direct or indirect interest.

PART II: ORGANIZATION OF ENFORCEMENT

II.1 The status of the judicial officer

II.1.1 Jurisdiction and competencies of bailiffs and judicial officers

In Cyprus, bailiffs are functionaries of the court, but are not public servants, with the exception of court bailiffs⁶², namely the Judicial Officers. The latter are public servants and carry out, under the control of the Registrar, acts relevant to the enforcement of judicial decisions, such as executions of writs or sale of movable property. Private bailiffs have no competence in relation to enforcement. However, service of documents is effected by private bailiffs, the majority of whom exercise their role as either liberal or self-employed professionals. So, there is a distinction of bailiffs into court bailiffs (namely the Judicial Officers) and private bailiffs who are in charge for the service of documents. More specifically, it was considered that due to the high volume of documents that need to be served, it was not practicable to rely on court bailiffs under the control of the Registrars to effect service of documents. Hence, the 1996 amendment to the CPR introduced Order 5B of the CPR⁶³, which provides that a private bailiff is any person who is authorized by the Supreme Court to effect service of documents⁶⁴ not originating from the court. Accordingly, each party has the responsibility to ensure that service is effected and in this respect may freely choose the bailiff they wish to co-operate with. Usually, the advocates of the parties have the responsibility to ensure the proper compensation of the bailiffs in accordance with the

⁶¹ Ibid, pp.243-244.

⁶² A. Emilianides, Civil Procedure in Cyprus, p.52.

⁶³ CPR of Cyprus are available at: <http://www.cylaw.org/cpr.html>.

⁶⁴ A. Emilianides, Civil Procedure in Cyprus, p.52.

compensation scales for service of documents decided by the Supreme Court. However, service of documents originating by the court or official documents or documents that need to be served based on transnational, cross border agreements are effected by the Judicial Officers and under the directions of the Registrar.

In order for a person to become a bailiff they should apply for a license. He/she submits his/her application to the Registrar of the District Court of the district where the bailiff shall operate. The applications are then transmitted to the Chief Registrar that further transmits them to the Supreme Court. Both the Chief Registrar and the Registrar may submit their comments on the applications. The Supreme Court may approve the application, if certain criteria are fulfilled. More specifically, if the applicant is at least 18 years of age and not older than 70, has a school leaving certificate and, if he is a male, completed his military obligations, has a driving licence, has not committed any offence involving moral turpitude or lack of honesty and satisfies the Court that he/she has the ability to properly carry out his/her duties. No legal studies or a university degree are needed, however the Supreme Court may further decide that the applicant should attend special courses and pass examinations on the CPR. Finally, a bailiff licence is granted on a personal basis and, accordingly, its assignment to a third party is precluded. The bailiff may effect private service in the entire geographical area of Cyprus. However, if the bailiff is called upon to effect service outside the district where he/she has his/her central seat, he/she may opt to assign the particular service to another bailiff who has his/her central seat in the particular district. A licence shall last for two years and is renewable. The Supreme Court may revoke the licence, either *ex proprio motu* or following a recommendation by the Chief Registrar, whenever it is determined that one of the requirements no longer applies, or if the bailiff does not properly carry out his/her duties⁶⁵.

II.1.2 The Judicial Officer

In the Republic of Cyprus, the “judicial officer” is the relevant entity empowered to exercise enforcement acts in civil and/or commercial cases. In the Member State’s original language, the Judicial Officer is known in Greek as “*Δικαστικός Επιδότης*” (“*Dikastikos Epidotis*”) in singular form and “*Δικαστικοί Επιδότες*” (“*Dikastiki Epidotes*”) in plural form. Judicial Officers are public servants and carry out acts relevant to the enforcement of judicial judgments, such as executions of writs (generally indorsed writs and specially indorsed writs) or sale of movable property under the directions of the Registrar and they have specific territorial competence. Whilst the judicial officer has a monopoly over enforcement of court decisions and other enforceable titles in civil matters, the same is not reflected in the case of criminal matters, whereby the task is shared with the police authority. It should be noted also that the Official Recipient is in charge when it comes to debts of companies, credit institutions and banks are in charge regarding public actions of mortgaged immovable property, the Department of Lands and Surveys of Cyprus regarding forced sale of not mortgaged immovable property and in some cases the Police Authority as explained above.

The below table summarizes the activities carried out solely by the judicial officer and

⁶⁵ A. Emilianides, *Civil Procedure in Cyprus*, p.52.

those shared by the police authority.

II.1.3 Activities of the Judicial Officer

Activity	Judicial officer	Judge	Lawyer	Notary	Other namely:
Attachment of movable goods in the hands of the debtor	√				
Attachment of movable goods in the hands of a third party	√				
Attachment of immovable	√				
Attachment of earnings	√				
Attachment in the hands of a third party of funds owed to the debtor	√				
Attachment of intangible goods other than the funds owed to the debtor	√				
Freezing and/or collection of tangible movable goods that should be handed over by the debtor according to a court decision	√				
Attachment of motor vehicles	√				
Attachment of ships and vessels	√				
Attachment of aeroplanes	√				

Attachment of crops	√ (only those subject to enforcement)				
Attachment of goods placed in a safe	√				
Evictions	√				Police
Arrest of persons according to a court decision					Police
Handing of children according to a court decision					Police/ Competent Authority (Social Welfare Services)
Bringing physically a party to a court hearing					Police
Provisional measures on tangible movable goods of the debtor	√				
Provisional measures on intangible movable goods of the debtor	√				
Setting up of a provisional judicial guarantee on an immovable of the debtor	√				
Setting up of a provisional judicial guarantee on a business of the debtor	√				
Setting up of a provisional judicial guarantee on shares, stocks and securities of the	√				

debtor					
Physical (as opposed to Internet) forced auction sale of tangible movable goods attached by the judicial officer	√				
Physical (as opposed to Internet) forced auction sale of intangible movable goods attached by the judicial officer	√				
Physical (as opposed to Internet) forced auction sale of businesses attached by the judicial officer	√				
Physical (as opposed to Internet) forced auction sale of immovable goods attached by the judicial officer	√				Private Companies (Banks etc.)
Internet forced auction sale of immovable goods attached by the judicial officer					Private Companies (Banks etc.)
Distribution to creditors of monies collected during the forced auction sale of an immovable good	√				(Liquidator)

In Cyprus, there is a shortage of Judicial Officers in major cities. Their territorial competence is determined on the part of the national territory by which they are allocated (in competition with one or several other Judicial Officers.) The obligations of the Judicial Officer take the form of Statutory and Legal obligations which relate to

the professional activities of the Judicial Officer as a public servant.

In some cases, there is a 'duty to act' whereby the Judicial Officer is requested to lend his/her cooperation in certain cases. The only exception with regard to the aforementioned duty is if there are territorial restrictions on a Judicial Officer to act.

No Ethical and/or Deontological rules apply to the role of a Judicial Officer but such rules do apply to Judges and Lawyers of the Republic of Cyprus.

II.1.4 Disciplinary proceedings against Judicial Officers

No disciplinary rules apply to the profession of a Judicial Officer but do apply to all other law professionals. However, no specific body is in charge of ruling disciplinary measures with the exception of those indicated in the disciplinary rules for civil servants.

II.2 Supervision over enforcement

In the Republic of Cyprus, the Supreme Court and the Ministry of Justice are in charge of controlling the statutory professional activities of the Judicial Officer, who is a public servant.

II.3 Access to the premises

A Judicial Officer is not authorized to enter the premises when neither the debtor nor a legal representative is present. In such an event where the premise is also locked, the Judicial Officer is allowed to enter the locked premises only by allowance from the Court to do so.

When carrying out enforcement, the Judicial Officer is authorized to remove a person from the place where enforcement action is taking place, only through police assistance in the event such a person obstructs the commission of enforcement.

II.4 Obstructing the judicial officer from carrying out enforcement

The Judicial Officer cannot be assisted while carrying out enforcement and he/she is not authorized to remove a person from the place where enforcement action is taking place, if such person obstructs its commission. In such case, the Judicial Officer will call the Police and ask guidance from the Court.

II.5 Time of enforcement

Regarding the time limits of the enforcement procedure, execution of a warrant for the seizure and sale of movable property is carried out between sunrise and sunset and property that has been seized (other than money or securities) must be sold only after at least three days have elapsed from the day following the seizure, unless subject to wear and tear or if the owner so requests in writing. Until the sale is completed, the property must be placed in a suitable place or may remain under the care of a suitable person.

II.6 Mediation

Mediation has been introduced in Cyprus by the (applicable) Mediation on Civil

Disputes Law 159(I) of 2012⁶⁶, which was enacted on 16 November 2012 and governs the mediation process⁶⁷. This law harmonized Cypriot legislation with the (above) Mediation Directive 2008/52/EC⁶⁸ of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters⁶⁹.

The Cypriot mediation law provides for registration of mediators to the Registry of Mediators as well as their removal from the registry. Specifically, according to Article 7, practicing advocates, members of the Cyprus Chamber of Commerce and Industry and of the Technical Chamber of Cyprus have the right to be on the Registry of Mediators if they meet specific criteria. The Mediation Registry is held by the Minister of Justice and Public Order. Actually, according to certain provisions of Law 159(I) 2012, there are two Registers of Mediators: (a) the Register of Mediators where the mediation in question concerns a commercial dispute, and (b) the Register of Mediators where the mediation in question concerns civil dispute, other than commercial. The detailed procedure a person needs to follow in order to be on the Registries of Mediators is explained (in English too) on the Ministry of Justice's website⁷⁰. Mediation training is needed, and every registered mediator is obliged to continue his/ her training on mediation by attending courses of a certain duration and to submit the relevant certification to the Ministry of Justice and Public Order⁷¹. The Judicial Officer is a public servant and he/she cannot exert the activity of mediation.

PART III: ENFORCEMENT PROCEDURES

Under Section 14 of the Civil Procedure Law, Cap 6, any judgment or order of the Court for payment of money may be carried into execution by the following measures:

- a) Seizure and sale of movable property⁷²;

⁶⁶ See, the website of the Cyprus Bar Association:

<http://www.cyprusbarassociation.org/index.php/en/for-lawyers/mediation> where the Law 159(I) of 2012 is available in Greek. The law is also available in Greek at www.cylaw.org.

⁶⁷ See A. Plevri, Mediation in Cyprus: Theory Without Practice, *The Cyprus Review*, Vol. 30:1 Spring 2018, p.241, A. Emilianides and N. Charalampides, 'Cyprus', in *Civil and Commercial Mediation in Europe: Cross Border Mediation*, Vol. 2, eds. C. Esplugues et al. (Antwerp: Intersentia), 103-123 on the monistic legal framework of Law 159(I)/2012, A. Emilianides and X. Xenofontos, 'Mediation in Cyprus', *Civil and Commercial Mediation in Europe: National Mediation Rules and Procedures*, eds C. Esplugues, J. L. Iglesias, and G. Palao (Antwerp: Intersentia, 2012), 92-94, regarding the long tradition of Cyprus in mediation mechanisms in labour law disputes.

⁶⁸ The Mediation Directive 2008/52/EC is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:136:0003:0008:En:PDF>. On the transposition of the EU Mediation Directive in Cyprus, see Emilianides and Charalampides, 'Cyprus', Emilianides and Xenofontos, *Mediation in Cyprus*; A. Georgiades, 'Cyprus', in *EU Mediation Law and Practice*, eds. G. De Palo and M. Trevor (Oxford: Oxford University Press, 2012), 47-58, A. Georgiades, *The Variegated Landscape of Mediation*, eds. M. Schonewille and F. Schonewille (The Hague: Eleven International Publishing, 2014), 99-107.

⁶⁹ See in detail A. Plevri, *Mediation in Cyprus: Theory Without Practice*, *The Cyprus Review*, Vol. 30:1 Spring 2018, p. 241.

⁷⁰ See Ministry of Justice and Public Order, 'Promotion of Legislative Work'.

⁷¹ *Ibid*, pp.244-245.

⁷² See in detail, A. Emilianides, *Civil Procedure in Cyprus*, p.238-240.

- b) Sale or making the judgment a charge on immovable property⁷³;
- c) Sequestration of immovable property;
- d) Attachment of property (sections 73–81 of Cap. 6)⁷⁴.

III.1 Initiation and end of the enforcement procedure

The enforcement procedure is initiated when an application to the Court is made and upon filing the relevant application. Upon commencement of the proceedings, it is then the task of the enforcement creditor to deliver information on the assets of the debtor which are capable of being enforced.

In the request for enforcement document, the creditor must specify the object of enforcement. In the event that the enforcement measure is related to a writ of movables, then there is no need to indicate the exact object of enforcement. In both cases, the debtor is unable to propose to the Judicial Officer the preferred enforcement assets. Should he/she wish to do so, the creditor is able to withdraw the request for enforcement at any time.

Enforcement of the Enforcement Document can be requested by the creditor through the court; at no point does the Document need to be final in order to be enforced.

III.2 Enforcement against movable assets to settle pecuniary claims

With regard to the attachment on movables, the creditor is obliged to specify such movables in the request for enforcement. For the enforcement proposal of immovables, it is the decision of the competent Court. The custody of the inventoried items is determined by the Judicial Officer. It is not necessary that the enforcement decision is delivered to the relevant debtor prior to the inventory of the movables.

III.2.1 Third parties

In the event third parties have a right over the items in possession of the debtor, they must notify the relevant Judicial Officer and prove their rights on the items. If the items of the debtor are in possession of a third party, then the creditor must file for a writ of attachment with the Court.

III.2.2 Spouses

In relation to matrimonial and extra-marital spouses, it is assumed that they, alongside the debtor, are equal co-owners of all movable items in their home, flat or business premises.

III.2.3 Valuation and sale

Valuation of the movable goods is determined by the Judicial Officer. Once confirmed, parties cannot request a re-valuation. Goods must then be sold through a verbal public auction with the date, time and place made via a newspaper announcement, as specified by the Law, unless the Court orders for the sale of movables to be made by other means. It is the Judicial Officer who exercises the sale. The Judicial Officer is not entitled to postpone the public sale if there is only one bidder and the sale will go ahead regardless. There can be more than one public sale session; if the movables

⁷³ Ibid, pp.240-243.

⁷⁴ Ibid, p.245.

however are not sold during the last session of the public auction, then the enforcement procedure will be suspended. Once purchased, if the purchase price is not paid within a reasonable time limit, the Judicial Officer shall declare the sale as invalid. Similarly, if none of the bidders makes the compulsory deposit of the purchase price, the Judicial Officer may consider that the public sale has failed and can schedule a new session.

Once the movables are sold, the sale revenues are then allocated by order of priority to the following:

1. Expenses of the enforcement procedure;
2. The request of enforcement creditor.

In the event there are multiple creditors in the same order of settlement, then the amount earned through the sale of the movables will be settled proportionally to their amount, if the amount is insufficient for complete settlement. The settlement of creditors can be disputed in Court.

III.2.4 Limitations on sale

Section 16 of Cap 6 specifies a list of necessities which cannot be taken in execution by sale of movables. Such items include, “[...] *clothing of the judgment debtor and his family, as well as cooking utensils, furniture, equipment ranging from refrigerator, television and radio to computers, air-conditioners, kitchen and medical equipment, the lowest value vehicle necessary for the transportation of the judgment debtor and his family, books, tools, vessels and similar items necessary for the exercise of the profession, trade or occupation of the judgment debtor of a value not exceeding EUR 10,000, necessary agricultural equipment or machinery or animals of a value not exceeding EUR 20,000, as well as the food required to feed such animals for six months, provisions for the judgment debtor and his family for three months.*”⁷⁵

III.3 Attachment on the bank account of the debtor

Prior to the attachment order, the Judicial Officer does not have access to information in the bank accounts of the debtor and is unable to request information from a bank. This is a major disadvantage of the enforcement procedure in Cyprus. The attachment order to the bank must contain the bank account numbers. It also refers to any deposited savings, details on a current account, foreign currency account or any other account in the bank. Upon receipt of the attachment order, the specified bank accounts are automatically blocked according to the provisions of the relevant Court Order. The bank, however, is not obliged to inform the Judicial Officer whether the debtor has other bank accounts with the bank or disclose the numbers of all accounts held by the debtor in said bank. Nor is the bank obliged to provide any further information. If there exists more than one attachment order, banks conduct payment according to the time of delivery of the attachment order. Failure to comply with the attachment order will result in the bank and its official persons being held liable for lack of compliance. Should the Judicial Officer wish to transfer the funds in the

⁷⁵ A. Emilianides, *Civil Procedure in Cyprus*, p.239.

debtor's bank account to the Judicial Officer, he/she must send a separate transfer order to the bank and must ensure that this is done within the time limit stated in the Court Order and/or within a reasonable time.

In the event the execution process is terminated, or the debtor has paid the claim in full, the Judicial Officer is obliged to notify the banks in order to release the debtor's accounts.

III.4 Enforcement against savings deposits and current accounts

See III.3.

III.5 Enforcement on immovable property

The court who gave the decision is the competent entity to decide on the enforcement proposal for any immovable item.

All immovables in the Republic of Cyprus are registered at the Cyprus Land Registry.

III.5.1 Enforcement against registered real estate

After the enforcement on movable property has failed, an application to the Court is made regarding enforcement against immovable items. The creditor must present evidence from the Land Registry proving ownership by the debtor together with the enforcement proposal for the immovable item. The debtor does not have the right to propose to the Judicial Officer the assignment of enforcement on some other object or by some other means than the immovable in question. In the event of a change of ownership of the immovable during the enforcement procedure, the debtor registers a Memorandum over the property and usually the property cannot be transferred.

III.5.2 Preparation of the sale of the real estate: Valuation, conditions and method

An application for the sale of immovable property for execution of a judgment or order should be by summons and set out in detail the property sought to be sold and the amount sought to be recovered, as per Order 42 of the CPR.

III.5.2.1 Limitations on sale

Exemptions exist in relation to the sale of the immovable property, "[...] where the immovable property consists of a house, the Court shall leave to the judgment debtor such house accommodation as absolutely necessary for him and his family. If the judgment debtor is a farmer, the Court may further exempt from sale as much land as is absolutely necessary in order to support the judgment debtor and his family."

III.5.2.2 Valuation

The value of the real estate in question is determined on the basis of expert evaluation and other facts related to its market price on the day of evaluation, taking into consideration facts that may decrease its value. Even in the event the ascertained value is not enough to cover the amount of credit owed, suspension of enforcement cannot be proposed by anyone.

III.5.2.3 Conditions

The conditions of sale are made known in the document of sale served to the parties. No time limit exists for the publication of the conditions for sale.

III.5.2.4 Method

Similar to movable goods, immovables are to be sold through a verbal public auction organized at and exercised by the land registry or banking institution (e-auction). The auction will take place even if there is one bidder. Only one session of public sale will take place. Should the purchase price not be paid within a reasonable time, the Judicial Officer shall declare the sale as invalid. Further, in case no bidder makes the compulsory deposition of the purchasing price within determined deadlines, the enforcement shall be terminated.

In the event the debtor does not voluntarily vacate the premises, only the court is able to give permission for the eviction of the debtor; the buyer cannot do so him/herself. Once the immovable is sold, the sale revenues are then allocated by order of priority to the following:

1. Expenses of the enforcement procedure;
2. Requests of the insured creditors with pledged, shall be realized by the order of priority before the enforcement proposer;
3. The request of the enforcement proposer;
4. Claims of creditors insured with pledged, which are realized by order of priority, shall be settled after the enforcement proposer;
5. Rewards for personal servitudes, which are terminated through the sale of real estates.

In the event there are multiple creditors in the same order of settlement, then the amount earned through the sale of the movables will be settled proportionally to their amount, if the amount is insufficient for complete settlement. The settlement of creditors can be disputed in Court.

III.6 Enforcement against wages and other permanent pecuniary income

The employer of the debtor is obliged to inform the Judicial Officer that the debtor is indeed his/her employee and disclose the salary paid to the debtor. In the event an employer ought to have paid instalments but they were not deducted from the debtor, the employer may be held liable for any unpaid instalments.

III.6.1 Limitations

With regard to the enforcement against personal income, only the minimum amount for necessities can be sequestrated. However, there are limitations on the amount sequestrated in the event the debtor's income is based on:

- social assistance;
- rewards, due to bodily damage according to the provisions of disability guarantee;
- incomes based on temporary unemployment;
- children's allowances;
- the contract for life nutrition of and for life rent.

The above restrictions will still apply in the case of a maintenance claim, a claim based on unpaid salary or based on invalidity.

III.7 Attachment under the debtor's debtor

The competent court to decide on the enforcement proposal for attachment on the debtor's debtor is the court in whose territory the items are situated. The creditor in this case is obliged to specify such claim in the request for enforcement. However, the debtor's debtor has the right to object or appeal against the attachment order. In the event there are more creditors, the right of pledge is satisfied by order of priority; particularly if received by the Judicial Officer on the same day they all take the same order of priority.

A debtor's debtor shall be held liable to the creditor for the damage caused by his/her non-declaration or for providing an inaccurate or incomplete declaration on the amount owed to the debtor and whether he/she is ready to settle the debt and if he/she has an obligation to fulfil other conditions in order to pay the debt.

The debtor's debtor will then be obligated to deposit the amount with the creditor or the Judicial Officer. In the case of multiple creditors, the creditor who has first done the request for enforcement will be the first to be compensated. In the event these are all done on the same day, the transfer of the amount shall be assigned in respective separate amounts in benefit of each creditor.

III.8 Enforcement against shares

The competent court to decide on the enforcement proposal for attachment on the debtor's shares is the court in whose territory the items are situated. The creditor in this case is obliged to specify such claim in the request for enforcement. The creditor also gains the right of pledge on the attached shares. The enforcement of the attachment on the debtor's shares is effectuated through hand over of the enforcement decision to the institution which keeps the register of shares; registry of shares is obligatory to effectuate the attachment. The shares that can be traded on the Stock Exchange or another public market must be sold in accordance with the legislation regulating such shares. The sale price of these shares will be the average of the opening and closing market prices for those securities on the day of sale on the Exchange or Market on which they are normally sold. The shares that cannot be sold through the aforementioned are then sold through public auction, with their valuation conducted in accordance with the provisions on valuation of movable assets (see III.2). If these shares cannot be sold through public auction then the enforcement creditor may request enforcement through transferring the securities to his ownership, instead of payment.

III.9 Other attachment procedures

No information available.

III.10 Handing over movable assets

See Prior Note under Part I.

III.11 Enforcement in reinstatement of employee to work

The Court that issued the decision is the competent court to decide on the

enforcement proposal based on the document forcing the employer to reinstate the employee or to assign them to an appropriate position. The creditor can then request the Court to force the debtor to pay him/her monthly salary which becomes claimable from the day when the decision became final until the day of return to work.

III.12 Eviction

The Court that issued the decision is the competent court to decide on the enforcement proposal for eviction and hand over of the real estate for the commission of enforcement. It is the role of the Judicial Officer to provide the required workforce and the transportation means to effect enforcement. Upon eviction, the movable items in the real estate must be handed over to the debtor who is then liable for the cost of custody.

III.13 Enforcement of obligations to act, refrain from acting or suffer action

The Judicial Officer is the person who decides on the enforcement proposal if the debtor, based on the enforcement document, has a duty to perform, tolerate or omit certain actions. The Judicial Officer also carries out the enforcement for settlement of obligation for action which can be performed by anyone.

III.14 Sequestration of goods

The Judicial Officer deals with sequestration in the Republic of Cyprus. 'Goods' in the case of sequestration concerns movable tangible and intangible goods, immovables and businesses. Sequestration can be formed on a voluntary or contract basis at the hands of a sequester.

III.15 Enforcement of foreign enforceable documents from non-EU States

Regarding non-EU judgments, the enforcement of a foreign judgment issued by the courts of a state with which Cyprus has entered into a bilateral or multilateral agreement is governed by that agreement and national law, namely the Foreign Court Judgments (Recognition, Registration and Enforcement based on Convention) Law of 2000 (Law 121(I)/2000). If the foreign judgment was issued by a court of a Commonwealth country, then Chapter 10 of the Foreign Judgments (Reciprocal Enforcement) Law 1935 applies. Cypriot courts cannot review the substance of a judgment. The common grounds for refusing recognition and enforcement in Cyprus include jurisdictional matters, issues of public policy, cases where the claim is pending elsewhere (*Lis alibis pendens*) and cases where recognition is inconsistent with previously issued judgments between the same parties.

District Courts of the area where the person against whom the enforcement will be made resides have the jurisdiction to issue an order for the enforcement of an act not issued by a court or issued by a foreign court⁷⁶. In practice, the lawyer who handled the case before the court is the one by whom the court judgments are usually enforced by means of one of the enforcement methods available by law. Regarding the registration and enforcement of a foreign judgment under a multilateral or bilateral agreement, the procedure is undertaken by the Ministry of Justice and Public Order, as the central authority, through the Law Office of the Republic of Cyprus⁷⁷. In

⁷⁶ In cases of maintenance orders, the above jurisdiction belongs to the Family Courts.

⁷⁷ http://www.law.gov.cy/law/lawoffice.nsf/dmlindex_en/dmlindex_en?OpenDocument.

other cases, the procedure may be carried out through lawyers.

An enforceable decision in a non-Member State of the EU cannot be enforced directly in the Republic of Cyprus without recognition proceedings. In addition, an unenforceable decision made in a non-Member State of the EU cannot be recognized directly without any proceedings. It is the competent Court which deals with requests relating to recognition of such court decisions.

By virtue of the Judgments of Foreign Courts (Recognition, Enforcement and Execution) Law 121/2000, a judgment may be executed if it has been issued by the courts of a country with which the Republic of Cyprus has signed a bilateral Treaty and so long as it is executory in the country where it was rendered; the definition of a judgment further includes interim judgments. Moreover, in accordance with section 5 of Law 121/2000, the relevant process with regard to a decision made in a non-Member State of the EU begins with a general application by summons that should be filed, accompanied by an affidavit and in accordance with the CPR. The potential objections are limited to jurisdictional grounds or to the fact that the judgment has been satisfied or to requirements set out in the treaty. The proceedings require the compulsory intervention of a lawyer.

During the proceedings for the recognition, the competence of the foreign judge must be ascertained in addition to the conformity/legality of the court decision with the domestic law, the authenticity of the court decision and any material facts such as names and signatures of judges and clerks who have participated in the foreign decisions. Upon recognition, the decision can be contested. The decision over the contested decision will be made by the Court whose jurisdiction has recognized the decision. When uncontested, recognition of the decision may take up to three months. When contested, this takes between six months to a year.

PART IV: ENFORCEMENT COSTS

IV.1 The costs of enforcement

IV.1.1 Cost of civil proceedings

As a general rule, costs of any civil proceedings or those incidental to these proceedings are left to the discretion of the court under Section 43 of the Courts of Justice Law 14/60 and Order 59, Rule 1 of the CPR. So, costs of civil proceedings cannot be determined in advance, but are calculated by the registrar of the court based on the regulations on fees and are levied on the person against whom the judgment was delivered.

IV.1.2 Prepayment of enforcement, creditor and debtor enforcement fees

The Judicial Officer will request prepayment of the enforcement expenses having informed the creditor on the likely costs of such fees, in addition to the performance fee. Prepayment paid by the creditor during the enforcement procedure is always reimbursed from the debtor once the debtor pays in full. The debtor in some instances will also pay the initial fee, third party expenses e.g., a locksmith in the process of eviction, enforcement expenses and the performance fee. Under no circumstances can the debtor be exempt from enforcement fees/expenses.

IV.1.3 Fee for the initiation of enforcement proceedings and enforcement expenses

The fee for initiation of proceedings is a fixed amount, which is proportional to the value of the claim. The enforcement expenses are also proportional to the amount of the claim and cover reimbursement of procedural expenses necessary to fulfil the judicial officers' functions. A Judicial Officer is entitled to receive remuneration of enforcement costs for any activities undertaken, which is dictated by law or regulation regarding enforcement against movable assets. The enforcement fees in general cannot be determined or estimated in advance, they are not accessible on a website etc. They are demanded from the debtor and are proportional to the amount of the claim, the type of enforcement action and the nature of the assets seized. Moreover, it depends whether publishing, storage, transportation etc. costs will be required in each specific case. In the event the debtor is insolvent, the creditor covers any unpaid enforcement fees. The fee schedule is obligatory. 5% of the outcome of every auction is deposited in the Fixed Treasury of the State, which aims to cover the costs of the enforcement in case it is not possible to be covered by the outcome of the auction because e.g. the auction did not take place. With regard to public auctions, the debtor is charged a fee for the use of the auction room. Finally, when it comes to enforcement on immovable property and more specifically to forced sale by public auction via the Department of Lands and Surveys of Cyprus⁷⁸, there are certain rights and fees to be paid which are available at the website of the forementioned Department⁷⁹:

FORCED SALE BY PUBLIC AUCTION

<i>(a) For the acceptance of the application for the sale of immovable property</i>	<i>20</i>
<i>Euros</i>	
<i>(b) For preparing Notices of Sale per District or Municipality or Community</i>	<i>20</i>
<i>Euros</i>	
<i>(c) For preparing various notifications to all interested parties, for each notification</i>	
<i>10 Euros</i>	
<i>(d) For the distribution of the proceeds of sale (from the sale of property held in undivided shares):</i>	
<i>i. For an amount not exceeding €10.000,00</i>	<i>20</i>
<i>Euros</i>	
<i>ii. For an amount exceeding €10.000,00 but not exceeding €100.000,00</i>	<i>200</i>
<i>Euros</i>	
<i>iii. For an amount exceeding €100.000,00</i>	<i>500</i>
<i>Euros</i>	
<i>(e) For preparing a final account</i>	<i>50</i>
<i>Euros</i>	
<i>(f) For issuing a copy of the final account</i>	<i>10</i>
<i>Euros</i>	

⁷⁸ <https://portal.dls.moi.gov.cy/en-us/Rights%20and%20Fees/Pages/default.aspx>.

⁷⁹ See <https://portal.dls.moi.gov.cy/en-us/Rights%20and%20Fees/PublishingImages/Pages/default/Rights%20and%20Fees.pdf> (in English).

IV.1.4 State as creditor or debtor

If the state is the creditor, it is not exempted from prepayment of enforcement costs, even if the enforcement was unsuccessful. The same applies if the state is a debtor unless exempted from payment of enforcement costs; in such a case it is the creditor who pays.

IV.1.5 Legal aid

The Constitution does not provide for a right to legal aid.⁸⁰ However, following the enactment of Legal Aid Law 165(I)/2002, the law enables the provision of legal aid in specific judicial proceedings. The creditor cannot be exempted from enforcement fees or apply for legal aid in such cases. In case of a financially vulnerable creditor, it is the state who will then be liable for the prepayment of enforcement fees and, in the event an enforcement is unsuccessful, it is liable for the payment of the enforcement costs.

PART V: LINKS, LITERATURE AND SOURCES

Links in Greek:

- <http://www.cylaw.org/nomoi/indexes/6.html>
- <http://www.cylaw.org/cpr.html>
- www.cystat.gov.cy
- [http://www.supremecourt.gov.cy/judicial/sc.nsf/All/07D180F8C4DA9BE9C22584400035C8C3/\\$file/Progress%20Report%2006.06.2018%20\(2\).pdf](http://www.supremecourt.gov.cy/judicial/sc.nsf/All/07D180F8C4DA9BE9C22584400035C8C3/$file/Progress%20Report%2006.06.2018%20(2).pdf)
- <https://www.brief.com.cy/analyseis/restart-ekpoiiseonsto-sfyri-126-akinita-eu205-ek-se-10-meres>
- http://www.moi.gov.cy/moi/auctions.nsf/home_en/home_en?opendocument
- <https://www.eauction-cy.com/Home/HlektronikoiPleistiriamoi>
- <http://www.cyprusbarassociation.org/index.php/en/for-lawyers/mediation>

Links in English:

- <http://www.cylaw.org/cpr.html>
- https://e-justice.europa.eu/content_procedures_for_enforcing_a_judgment-52-cy-en.do?member=1
- http://www.law.gov.cy/law/lawoffice.nsf/dmlindex_en/dmlindex_en?OpenDocument
- <https://www.eauction-cy.com/Home/HlektronikoiPleistiriamoi>
- <https://www.eauction-cy.com/#AboutUs>
- <https://portal.dls.moi.gov.cy/en-us/Pages/The-Department-of-Lands-and->

⁸⁰ *Shalaeva*, App. 4/2005, Judgment of 21 Oct. 2005.

[Surveys-Web-Portal.aspx](#)

- <https://portal.dls.moi.gov.cy/en-us/Rights%20and%20Fees/Pages/default.aspx>.
- <https://portal.dls.moi.gov.cy/en-us/Rights%20and%20Fees/PublishingImages/Pages/default/Rights%20and%20Fees.pdf>

Links in French: N/A

Information is also provided by all the books, papers and case law mentioned in this report and specially by the monograph of A. *Emilianides*. 'Cyprus'. In International Encyclopaedia of Laws: Civil Procedure, edited by Piet Taelman. Alphen aan den Rijn, NL: Kluwer Law International, 2020, pp. 280 (Chapter 2, pp. 236-247).

Legislation affecting civil enforcement:

The relevant legislative framework on enforcement in the Republic of Cyprus is comprised of:

- (i) the Law on Enforcement Procedure, Cap. 6⁸¹
- (ii) the Civil Procedure Rules issued by the Supreme Court and securing measures, Orders 40-47 of the CPR⁸²:

Order 40: Execution in general

Order 41: Execution by seizure and sale of movable property

Order 42: Execution by sale of immovable property

Order 42A: Attachment and Sequestration

Order 43: Execution by attachment of debt or property

Order 43A: Writ of possession

Order 43B: Writ of delivery

Order 44: Bailiffs

Order 45: Receivers

Order 46: Enforcement of Judgments in newspaper libel actions

Order 47: Enforcement of extra-judicial orders

- (iii) Law 142(I)/2014 which amended the Transfer and Mortgaging of Land Law 9/1965 (Article 44Z) and authorized creditors of mortgaged property (mostly credit institutions) to hold private (in vast majority e) auctions for sale of mortgaged land without the need of previously securing a judicial decision

⁸¹ "Περί Πολιτικής Δικονομίας Νόμος Κεφ. 6". The measure of imprisonment of the judgment debtor was abolished by Law 134(I)/1999 and 66(I)/2004 pursuant to the Fourth Protocol of the ECHR as ratified in Cyprus by Law 52/1989, which provides that no one shall be deprived of his/her liberty merely on the ground of inability to fulfil a contractual obligation.

⁸²See <http://www.cylaw.org/cpr.html>.

- (iv) Ministerial Decree Number 346 published in the Official Gazette of the Republic (Number 5190) on 1.11.2019 regarding e-auctions according to article 44Z of the Transfer and Mortgaging of Land Law
- (v) Judgments of Foreign Courts (Recognition, Enforcement and Execution) Law 121/2000

APPENDIX I: Information on Cyprus, Cypriot Legal System and Cypriot Civil Procedure

The Republic of Cyprus, is the largest island state⁸³. According to information available on the website of Cypriot Statistical Authority (www.cystat.gov.cy⁸⁴) based on the results of the latest census (2011), the resident population of Cyprus in the government-controlled area is 856.960. Cyprus was a British crown colony until year 1960. The Republic of Cyprus was established as an independent and sovereign republic on 16 August 1960, when its Constitution came into force. In July 1974, Turkey invaded Cyprus and occupied the northern part of the island. This resulted to the fact that Greeks and other Christians of the region were displaced to the southern part of the island, whereas the Turks of the southern part of the island were forced to move to the north. On 1 May 2004, the Republic of Cyprus, including the territory occupied by Turkey, joined the European Union (EU)⁸⁵. However, the application of the *acquis communautaire* in the occupied areas has been suspended⁸⁶. The suspension is limited to the application of the *acquis* in the northern area of the Republic of Cyprus, which is currently not under the effective control of the Republic. It is notable, however, that the suspension does not apply with respect to judgments of courts sitting in the government-controlled area, the recognition of which is sought, even if such judgments concern land situated in the occupied areas⁸⁷. Moreover, the provisions of Cypriot law and the *acquis* do not apply in the British Sovereign Base Areas of Akrotiri and Dhekelia, which despite being geographically part of Cyprus do not form part of the Republic of Cyprus, but remain under the sovereignty of the United Kingdom⁸⁸. All references in this report are to the law as applies in the Republic of Cyprus.

⁸³ A. Emilianides, *Civil Procedure in Cyprus*, p.17.

⁸⁴ Last accessed: September 2020.

⁸⁵ See S. Laulhé-Shaelou, *The EU and Cyprus: Principles and Strategies of Full Integration*, Brill, 2010.

⁸⁶ A. Emilianides, *Civil Procedure in Cyprus*, p.21.

⁸⁷ See the landmark case C-420/07, *Orams v. Apostolides* [2009] ECR I-3571.

⁸⁸ See A. Emilianides, *Civil Procedure in Cyprus*, p.21, A. Emilianides, *Constitutional Law in Cyprus*, Kluwer, 2nd edition, 2019, S. Laulhe Shaelou, 'Focus on Territorial Exclusion and SuiGeneris Territories in the EU: The British Bases in Cyprus. A Special Case' *The Cyprus Yearbook of International Law*, 2012, pp. 73–110.

Cyprus⁸⁹ is a state with a mixed/hybrid legal system⁹⁰ and not a pure common law jurisdiction. The justice system is based on the adversarial model and the most common method of resolving civil and commercial disputes is litigation. In the framework of the legal order of Cyprus, there is neither Code of Civil Procedure nor Civil Code. Most of Cypriot law has been modeled on English common law, the basic principles of which are directly applied by Cypriot courts (Courts of Justice Law, Section 29). In view of the similarities between the Civil Procedure Rules in Cyprus and the corresponding Rules that were in force in England prior to the 1960 Independence of Cyprus, Cypriot judges and advocates often refer to authorities which were applicable in England prior to 1960 such as the 1950s editions of the White Book, the annual detailed explanation and commentary on English civil procedure⁹¹. The Civil Procedure Rules of Cyprus were enacted in 1954 prior to Independence and remain in force pursuant to Article 188 of the Constitution, albeit with amendments enacted by the Supreme Court⁹². The Civil Procedure Rules apply to all District Courts civil procedures and in civil procedures before other courts, in some cases, *mutandis Acroteria*. Additional procedural rules may be applicable depending on the type of the procedure, such as the Bankruptcy Rules or Companies Rules.

Civil procedural rules consist of both the process of adjudicating the dispute as well as the process of enforcing the court's judgment.

Under Cypriot law, the sources of civil procedure law are:

I. Constitution

The Constitution of Cyprus is the supreme law of the Republic and any ordinary laws, or international law instruments must not be inconsistent with the Constitution⁹³. Having said that, legislation which is contrary to the provisions of the Constitution safeguarding individual human rights may be declared unconstitutional by the trial court.

II. European Union Law

After the accession of the Republic of Cyprus to the EU, the Constitution of Cyprus was amended with the Fifth Constitutional Amendment of 2006, (127(I)/2006), which

⁸⁹ A. Emilianides, *Family and Succession Law in Cyprus*, 2018, p. 17, § 1: *"The Republic of Cyprus was established as an independent and sovereign republic on August 1960, when in Constitution come into force and the British sovereignty over Cyprus, as a crown colony, ceased. On 20 July 1974 the Republic of Turkey, one of the guarantor powers of the independence, sovereignty and territorial integrity of Cyprus, invaded the country with its armed forces and occupied the northern part of the country. As a result of the occupation, the Greeks and the other Christians of the northern region became displaced persons, having fled to the southern part of the island. In addition to that, the Muslim Turks of the southern part of the island were induced to relocate to the north. The area occupied by Turkey amounts to 36.4% of the territory of the Republic of Cyprus. The Turkish occupation in Cyprus continues to the present day, and therefore, the Republic of Cyprus is prevented from exercising its powers over the occupied territory"*.

⁹⁰ See Nikitas E. Hatzimihail, "Cyprus as a Mixed Legal System", *Journal of Civil Law Studies* 6 (2013): 1.

⁹¹ A. Emilianides, *Civil Procedure in Cyprus*, p.25.

⁹² A. Emilianides, *Civil Procedure in Cyprus*, p.24-25, where more references in footnote number 28.

⁹³ See in detail, A. Emilianides, *Constitutional Law in Cyprus*, Kluwer, 2nd edition, 2019.

aimed at facilitating the exercise of the rights and obligations of the Republic of Cyprus as an EU Member State. Consequently, EU law has an intra-constitutional effect, in the Cypriot legal order, in the sense that it is considered an integral part of the Constitution, and no constitutional provision may invalidate any provision of a binding nature of EU law⁹⁴.

Furthermore, EU Regulations, which have constitutional status, apply directly in the Republic of Cyprus. The most important of such instruments with respect to Civil Procedure, is the Brussels Regulation, i.e., Regulation (EU) 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and enforcement of judgments in civil and commercial matters, as well as other EU Regulations dealing with civil justice⁹⁵.

III. International Treaties

An international treaty, convention or agreement becomes part of the Cypriot legal order unless only if it has been ratified by the Council of Ministers, approved by law by the House of Representatives and published in the Official Gazette of the Republic. An international law instrument has superior force over any ordinary domestic legislation in Cyprus, in the sense of having superiority and precedence in its application. The most important self-executing international convention that is applicable in the Cypriot legal order is the European Convention on Human Rights (ECHR). Moreover, the most important provision of the ECHR relevant to Civil Procedure is Article 6 safeguarding the right to a fair trial⁹⁶. Finally, it should be noted that the Republic of Cyprus has ratified the Hague Convention of 1954 on Civil Procedure by Law 3(III)/2000.

IV. Ordinary legislation

By virtue of Article 188 of the Constitution, the laws which were in force during the British rule of Cyprus remained in force to the extent that they were not subsequently repealed or modified by an act of the House of Representatives, and to the extent that they are not contrary to, or inconsistent with, the Constitution⁹⁷. The Civil Procedure Law, Cap. 6, remains in force since prior to Independence, as amended⁹⁸. Important legislation enacted by the House of Representatives pertaining to Civil Procedure, includes the Courts of Justice Law 14/1960 and the Administration of Justice Law 33/1964.

V. Rules of Civil Procedure

Cypriot Civil Procedure Rules (CPR) have been issued by the Supreme Court and regulate the civil procedural rules⁹⁹. The Ministry of Justice, the Supreme Court and

⁹⁴ A. Emilianides, *Civil Procedure in Cyprus*, p.27.

⁹⁵ See A. Emilianides et al, *Private International Law in Cyprus*, Kluwer, 2015, Chrysanthos Christoforou (Andreas Neocleous & Co LLC), "Enforcement of Foreign Judgments", Cyprus, edited by Louis Garb and Julian Lew QC, Kluwer Law International, 2016, pp.10-11.

⁹⁶ A. Emilianides, *Civil Procedure in Cyprus*, pp.29-30.

⁹⁷ A. Emilianides, *Civil Procedure in Cyprus*, p.31.

⁹⁸ Cap. 6 has been amended with Laws 11/1965, 161/1989, 228/1989, 51(I)/1999, 134(I)/1999, 58(I)/2003, 66(I)/2004, 138(I)/2006, 62(I)/2014, 101(I)/2014, 138(I)/2014 and 109(I)/2018.

⁹⁹ The power of the Supreme Court to make its own rules of Court in the form of procedural regulations is extremely wide.

the Cyprus Bar Association have all agreed that a substantial reform of the CPR is required. In 2018, a committee under Lord Dyson was appointed in order to consider a revision of the Cypriot CPR, and submit proposals to the Supreme Court¹⁰⁰. The committee under Lord Dyson collaborated with a Rules Committee appointed by the Supreme Court. The Dyson Committee has delivered its final report and recommendations to the Supreme Court. Further action on the issue is pending. A procedural regulation, or an amendment in the CPR, unless otherwise provided, has retrospective effect.

VI. Jurisprudence (Case Law)

The principles of common law and equity apply in the Republic of Cyprus as a source of Cypriot law. Having a substantially codified legal system, Cyprus applies common law principles where there is no Cypriot legislation in force and insofar as existing Cypriot legislation is not contradicted¹⁰¹.

Cypriot courts are divided into two tiers of hierarchy, the Supreme Court and the lower First Instance Courts (District Courts). The Supreme Court has unlimited jurisdiction and its judgements when operating as an appeal court are final. Furthermore, previous judgments of the Supreme Court are binding for lower courts. That is why case law is of great significance with regard to interpretation of legal provisions¹⁰². The Supreme Court itself may depart from its earlier decisions whenever it concludes that a previous decision is founded on an indisputably wrong principle of law, or on a principle leading to manifest injustice, or on a principle which cannot be reconciled to changed legal or social circumstances¹⁰³. Judgments of the Courts of First Instance act purely as guidelines and they are not binding to other courts. Decisions of the British Courts have also a guiding role according to article 29 of the Courts of Justice Law 14/1960, as long as there is no contrary jurisprudence or legislative provision. It is noted, that previous case law (in general) is only binding so far as a subsequent law with different content has not been enacted.

APPENDIX II: Bibliography on enforcement in Cyprus

Regarding the bibliography on enforcement in Cyprus, the monographs, books and articles on Cypriot Civil Procedure listed below, either regard enforcement ad hoc or

¹⁰⁰ The progress report is available at:

[http://www.supremecourt.gov.cy/judicial/sc.nsf/All/07D180F8C4DA9BE9C22584400035C8C3/\\$file/Progress%20Report%2006.06.2018%20\(2\).pdf](http://www.supremecourt.gov.cy/judicial/sc.nsf/All/07D180F8C4DA9BE9C22584400035C8C3/$file/Progress%20Report%2006.06.2018%20(2).pdf).

¹⁰¹ S. Symeonides, 'The Mixed Legal System of the Republic of Cyprus' *Tulane Law Review* 78 (2003): 441, A. Emilianides, 'Cyprus: Everything Changes and Nothing Remains Still' in S. Farran et al. eds, *A Study of Mixed Legal Systems: Endangered, Entrenched or Blended* (Ashgate 2014): 215, A. Emilianides, *Family and Succession Law in Cyprus*, 2018, p.33, A. Emilianides, *Civil Procedure in Cyprus*, p.34.

¹⁰² C. Artemides, 'The Principle of Commitment of Courts to Case-Law in English Common Law' in *Aspects of Cypriot Law v. I* (Asselia 1981, in Greek): 219–231; S. Nikitas, 'The Principle of Judicial Precedent in English Common Law' in *Corpus de Jure Cyprii v.I* (Legal Studies Council 1987, in Greek): 119–133.

¹⁰³ A. Emilianides, 'Cyprus'. In *International Encyclopaedia of Laws: Civil Procedure*, edited by Piet Taelman. Alphen aan den Rijn, NL: Kluwer Law International, 2020, p.34.

include chapters on enforcement in the Republic of Cyprus¹⁰⁴:

- (i) A. Emilianides. 'Cyprus'. In International Encyclopaedia of Laws: Civil Procedure, edited by Piet Taelman. Alphen aan den Rijn, NL: Kluwer Law International, 2020, pp. 280 (Chapter 2, pp. 236-247), (monograph in English)
- (ii) N. Koulouris, Cypriot Civil Procedure, Athens, Nomiki Vibliothiki, 2017, pp. 408, (Chapter 10, pp.294-327), (textbook in Greek)
- (iii) S. Zannoupas, Order for Compensation and Order for Collection, Paphos, 2016, pp.304 (book in Greek)
- (iv) St. Nathanael, 'An Overview of Civil Litigation as Practiced in Cyprus and Enforcement of Foreign Judgments', (1989) 26 Review of Cypriot Law: 4034 – 4046 (paper in Greek)
- (v) Ch. Christoforou (Andreas Neocleous & Co LLC), "Enforcement of Foreign Judgments", Cyprus, edited by Louis Garb and Julian Lew QC, Kluwer Law International, 2016 (chapter in English)

¹⁰⁴ See further bibliography of Cypriot Civil Procedure at A. Emilianides, An Introduction to the Bibliography of Cypriot Law, 2020, (3rd Edition), Hippasus Communications & Publishing Ltd, No 8.7, pp.60-61 (in English).