

LANDMARK JUDICIAL REFORM IN CYPRUS – BUILDING A MODERN, FAST AND EFFECTIVE COURT SYSTEM

The long-awaited reform of the Courts of Cyprus has finally reached the stage of its implementation following the passage of a series of Laws providing for a major overhaul of the Cypriot court system from the Supreme Court downwards.

Here is an overview of the most significant changes:

- **Re-modelling the Supreme Court**

The Seventeenth Amendment to the Constitution Act of 2022 (N. 103(I)/2022) regulates the reform and modernisation of the top tier of the judicial system by providing for the separation of the current Supreme Court of Cyprus (composed of a President and 12 judges) into a Supreme Constitutional Court and a “new” Supreme Court with more limited jurisdiction than the current Supreme Court.

The main aims of the establishment of two separate top-tier courts are (a) the decentralization of the powers of the existing Supreme Court and the establishment of a system of checks and balances enhancing transparency and, (b) the promotion of specialisation among the country's top judges:

(1) The New Supreme Court

The current Supreme Court will be repurposed as a third level-appellate court, competent to resolve any matter referred by the new (second level) Appellate Court and not falling within the competence of the Supreme Constitutional Court.

In effect, the “new” Supreme Court will act as the highest (third tier) court of civil and criminal appeal and will be composed of (7) seven judges, one (1) of whom will act as President¹. It will have jurisdiction to (a) hear, on referral by the Court of Appeal, appeals against decisions of any court exercising civil or criminal jurisdiction, including courts of special jurisdiction, on matters of major public interest or general public importance or legal consistency in the face of conflicting or contradictory decisions of the Court of Appeal, (b) to rule (at a third and final instance) on an application by the Attorney General of the Republic or any of the parties following a civil or criminal appeal procedure on legal issues arising from the decision of the Court of Appeal and relating either to a change in settled case law or to the need for a correct interpretation of a primary or secondary substantive legislative provision or a major question of public interest or of general public

¹ The Administration of Justice (Miscellaneous Provisions) Act 1964 (N.33/1964)

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importance or a question of law consistency in respect of conflicting or contradictory decisions of the Court of Appeal on its exercise of its civil or criminal jurisdiction (c) decide on a retrial by the Court of Appeal or the court of first instance of criminal jurisdiction, as the case may be, of a criminal case which has been tried and a judgment of conviction has been issued, either at first instance and by a final judgment or on appeal, on the basis of new facts or evidence which, in its opinion, may overturn the judgment in whole or in part.

(2) Supreme Constitutional Court

The Supreme Constitutional Court, which will be composed of nine (9) Judges one (1) of whom will act as President, will have jurisdiction to: (a) hear, on referral from the Court of Appeal, appeals against decisions of the Administrative Court in matters of public law of major public interest or general public importance or consistency of the law in the face of conflicting or contradictory decisions of the Court of Appeal, (b) rule (at a third and final instance) by a request from the Attorney General of the Republic or any of the parties following a prior administrative review procedure on appeal on legal issues stemming from the decision of the Court of Appeal and relating either to a change in the established case law or to the need for correct interpretation of a primary or secondary substantive legislative provision or a major question of public interest or of general public importance or a question of law consistency in respect of conflicting or contradictory decisions of the Court of Appeal under the exercise of its review (administrative) jurisdiction, and (d) act as an annulment appellate panel of second instance against a decision of the Supreme Council of Judicature.

▪ Creation of a new Court of Appeal

Another important pillar of the modernised court system is the newly-created Court of Appeal², which will be composed of 16 judges and will have three divisions: civil, criminal and revisional (administrative law) in order to promote a higher degree of specialisation among judges.

The relevant Law contains transitional provisions regarding appeals that are already pending before the current Supreme Court. Broadly speaking, appeals filed after a date to be specified by the current Supreme Court will be referred to the new Court of Appeal, while appeals filed before that date, will be tried, in the case of civil and criminal appeals by the new Supreme Court and with respect to revisional appeals by the Supreme Constitutional Court.

The Court of Appeal is expected to try 3149 cases of which 2158 are civil appeals filed since 1 January 2018; 233 are criminal appeals, 688 are administrative review appeals filed since 1st of January 2019 (582 against a decision of a judge of the Administrative Court and 106 against a decision of a judge of the Administrative Court for International Protection) and 70 civil applications regarding primary jurisdiction to issue prerogative writs.

² The Administration of Justice (Miscellaneous Provisions) (Amendment) Act 2022 (N. 145(I)/2022)

▪ **Two new specialized Courts**

The package of judicial reforms also includes the establishment of both a Commercial Court and an Admiralty Court which will decide at the level of first instance on commercial and maritime cases and was deemed necessary to ensure an efficient administration of justice on such areas that require a specific expertise and to enhance the competitiveness of Cyprus as a centre for the provision of quality services and the long-term attraction of foreign investors. In this respect, the Law on the Establishment and Operation of a Commercial and Admiralty Court (N. 69(I)/2022) has been enacted.

The Commercial Court (which is modelled on the Commercial Court of Ireland) will have jurisdiction over all commercial claims in excess of €2.000.000 arising out of contracts or other commercial documents, sale of goods, insurance, operation of financial markets, vehicle manufacturing et al. Additionally, it will have jurisdiction to hear all competition, arbitration and intellectual property related matters, irrespective of the amount of the dispute. It will be composed of five (5) judges who will be appointed by the Supreme Council of Judicature.

The Admiralty Court which will consist of two (2) judges will have exclusive jurisdiction to hear admiralty claims relating to a vessel or an aircraft and issues of ownership, possession, mortgage or charge and damage caused by or to a vessel or loss of life.

Provided that the hearing of a commercial case has not commenced, the parties may apply for its transfer from the District Court to the Commercial Court. Pending admiralty cases shall automatically be transferred to the Admiralty Court.

In order to facilitate the trial of multi-jurisdictional disputes and major international commercial cases use of English language in judicial documents and during trial may be permitted upon a request by any of the parties.

It is anticipated that through this novelty of specialised courts and jurisdictions, the existing caseload of the District Courts will be significantly reduced. The two new courts are expected to begin operating early next year.

▪ **New set of Civil Procedure Rules**

As part and parcel of the historic changes described above, a new, fully-fledged set of Civil Procedure Rules, already approved by the Supreme Court and published, are expected to enter into force in the course of 2023. The approval of the new Rules has been followed by intensive training of judges, advocates and registrars which is currently under way.

One of the major aims of the new Civil Procedure Rules is to deal with the perennial problem of delays by promoting a radical change in civil litigation culture through the introduction of the “overriding objective” of dealing with cases justly and at proportionate cost as well as provisions intended to encourage the use of Alternative Disputes Resolution and enhance the courts’ case management powers.

▪ **E-justice**

Accompanying the above reforms is the long-overdue transition to the electronic and digital era through the introduction of a modern electronic court case management system and the digitalisation of the operation of the courts. The new “e-justice” platform is expected to become operative in January 2023. Meanwhile, a temporary electronic filing and case management system by the name of “i-justice” is already used which provides for digital filing, fee payments, true copy seals etc. As from 1st of February 2022 all new cases are filed electronically.

▪ **Concluding thoughts**

The upcoming reforms are designed to boost the confidence and trust of litigants in the Cypriot court system and to enhance its efficiency and accessibility by litigants. At the same time, professionals are encouraged to explore the use of alternative tools for the settlement of disputes such as mediation and arbitration, such as the recently launched (by the Cyprus Bar Association) Cyprus Arbitration and Mediation Center.

Our team of experienced and seasoned international litigators (with experience in multi-jurisdictional disputes and having appeared before courts for many countries and continents) is well placed to guide prospective litigants through the new rules and framework and to advise clients accordingly.