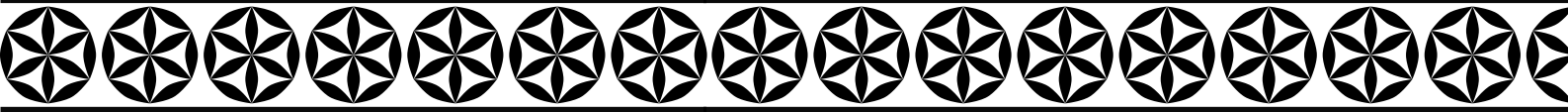


# CYPRUS LEGAL SYSTEM



**GRATA**  
INTERNATIONAL



# CYPRUS LEGAL SYSTEM



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The Cyprus legal system applies within the Republic of Cyprus, which although extensively codified, it is still heavily based on English common law applying the fundamental principle of precedents.

The legal system of Cyprus has an established hierarchy of legal rules and norms whereby certain legal rules are hierarchically superior to others.

Until the accession of Cyprus to the European Union in 2004 the Cyprus Constitution was the hierarchically highest norm of the legal system.

Today, according to Article 1(a) of the Constitution EU law is supreme to any national law and even to the Constitution of Cyprus.



The Constitution is therefore the second highest hierarchical norm of the legal system, followed by international law obligations, ordinary laws follow, secondary legislation and finally administrative or implementing acts.

Laws passed by the Cyprus Parliament must therefore be in compliance with the European Union, the Cyprus Constitution and International Law.



## AVAILABLE DISPUTE RESOLUTION PROCEDURES IN CYPRUS

Dispute Resolution in Cyprus is based on the following 3 main procedures:

Mediation, which is a voluntary and confidential process where an impartial third party, known as a mediator, assists the disputing parties in reaching a settlement.

Litigation. In Cyprus, litigation is exercised on the basis of the Cyprus court system which consists of District Courts, Assize Courts, and the Supreme Court. Civil cases are generally initiated in District Courts, while serious criminal cases are heard in Assize Courts. Appeals from the lower courts are made to the Supreme Court.

Arbitration, being a formal process where the parties refer their dispute to one or more independent arbitrators who make a binding decision.

## A. MEDIATION

The process of mediation is initiated by an agreement to mediate which, according to the Law, must incorporate certain components and procedural rules. Mediation applies in the form of a contract and between the parties an out-of-court agreement, or as part of court procedure as an attempt to facilitate the end -result and for the parties to reach a settlement.

The Courts have a supervisory role in Mediation procedures and may grant a stay of judicial proceedings if necessary, but quite importantly, parties cannot be compelled to mediate or denied the ability of using mediation as an alternative dispute resolution method.

**The Parties may freely jointly choose the mediator who shall coordinate the process, whilst securing at the same time a very beneficial aspect of mediation which is confidentiality. The relevant Cyprus Mediation law provides two exceptions to the privilege of confidentiality:**

- when there are overriding public policy concerns or
- when disclosure of information is necessary as to enforce the agreement. These exceptions are treated strictly and confidentiality cannot be curtailed for any other reasons.

Enforcement of the mediation settlement, can be made following an application of either party on the condition of consent from the other side, or of the consent given during the mediation process settlement. Following such application the Court will issue a declaration of the enforceability of the mediation settlement, having the same binding effect on the parties like a judgment or order.

## B. LITIGATION

Litigation is the most common and traditional method of dispute resolution in Cyprus and it refers to the dispute resolution procedures before the Cyprus courts.



Being a British colony until 1960, Cyprus is a common law jurisdiction and the Cypriot legal system is based on adversarial model, whilst Litigation are based on the English legal system.

Courts apply the fundamental principle of precedents, and such Superior Courts' decisions bind the first instance Courts.



In the absence of relevant Cyprus legislation, English common law and equity are applicable, and English authorities are quite often used as guidance for the Courts in various areas of interpretation.

In Cyprus, various litigation remedies are available to parties involved in legal disputes. These remedies aim to protect and enforce legal rights, resolve conflicts, and provide appropriate relief, such as damages, injunctions, specific performance, declarations, rectification and rescission and receivership.

## CYPRUS COURTS

The courts are divided into six types:

- 1 District Courts (civil actions)
- 2 Assize Courts (criminal cases)
- 3 Family Courts
- 4 Rent Control Tribunals
- 5 Industrial Dispute Tribunals
- 6 Military Court

All are presided over by the Supreme Court which (amongst other duties) acts as an appellant court to hear the appeals from lower courts in civil and criminal matters. The Supreme Court has unlimited jurisdiction and its decisions as an appellant court and its decisions are final, unless overturned by the European Court of Human Rights or the European Court of Justice.



## CYPRUS COURTS INJUNCTIONS WITH WORLDWIDE APPLICATION

A major function of the Cypriot Courts is the issuance of interim injunctions such as freezing injunctions to freeze property and money in Cyprus and abroad. Since Cyprus is an international services center, its Courts have issued over the years many injunctions in order to freeze assets, obtain or protect information, and generally to protect the claimants until the case is finally adjudicated. Such injunctions may be issued without notice (ex parte) even the same day the court application is deposited due to reasons of urgency, and would then be set returnable for service to the appellant party, which then would have the right to object it.

With regards to recognizing a judgment issued in Cyprus in another EU country, in accordance with the Brussels Regulation Recast (1215/12) any judgment obtained in a European Country is recognizable and enforceable without any special procedure required as if it was a judgment issued by the Court where recognition and enforcement is sought. The same process is followed for judgments obtained in third countries with which Cyprus has a treaty signed for the facilitation of the judicial processes such as the CIS countries.

As to service of documents if this is within the EU, then the EU Regulation 1393/07 as well as the Brussels Regulation Recast 1215/12 apply. In the event of non-EU countries the procedural may e different ant such would depend on the depends on the wording of the agreements for facilitation of judicial procedures, signed between Cyprus and the other country.

## PROVISION OF SECURITY

The applicant seeking an interim injunction of above nature must provide security with the court in the form of an undertaking, bank guarantee or cash, as per the particular instructions of the Court.

## TYPES OF INTERIM INJUNCTIONS:

### NORWICH PHARMACAL - DISCLOSURE ORDERS

Norwich Pharmacal injunctions, also known as disclosure orders or discovery orders, are legal remedies used to compel a third party to disclose information or documents related to a wrongdoing or potential legal claim. The term "Norwich Pharmacal" comes from a landmark UK court case, *Norwich Pharmacal Co. v. Commissioners of Customs and Excise*, which established the principle of this type of injunction. In Cyprus, Norwich Pharmacal injunctions are recognized and can be sought in appropriate circumstances. They allow an applicant (usually the claimant) to obtain information from a third party who is not directly involved in the dispute but has become "mixed up" in the wrongdoing or has relevant information. The purpose of such injunctions is to enable the claimant to identify potential wrongdoers or gather evidence to support their legal claim.

### GAGGING ORDERS

These are typical prohibition injunctions, with the issuance of which the Court orders to restrict the dissemination of specific information. In Cyprus, Courts have the power to issue injunctions to prevent the publication or disclosure of certain details, especially when it is deemed necessary to protect the interests of justice, individuals' privacy, or national security. It is deemed necessary to protect the interests of justice, individuals' privacy, or national security.

### ANCILLARY DISCLOSURE ORDERS

Commonly issued together with a freezing order a disclosure order as an ancillary remedy to ensure the effectiveness and compliance of the respondent with the freezing order.

### ANTON PILLER ORDERS

An Anton Piller order, also known as a search order, is a powerful legal tool that allows a plaintiff or claimant to obtain an order from the Court to search the defendant's premises and seize relevant evidence without prior notice. The purpose of an Anton Piller order is to prevent the destruction, concealment, or removal of evidence that may be crucial to a legal claim.

The name "Anton Piller" comes from a landmark UK court case, *Anton Piller KG v. Manufacturing Processes Ltd.*, where the concept of this type of order was established. Since then, similar provisions have been recognized and utilized in other jurisdictions, including Cyprus.

### RECEIVERSHIP ORDERS

A receivership order is a legal remedy that allows a creditor or a court-appointed receiver to take control of a debtor's assets or a specific property to satisfy a debt or facilitate the orderly realization of assets for the benefit of creditors. The purpose of a receivership is to recover outstanding debts, manage assets, and distribute proceeds to creditors in accordance with the law.

### ANTI-SUIT INJUNCTIONS

Such injunctions may be issued taking the form of anti-suit injunctions to prevent the respondent from bringing or continuing proceedings in a court or tribunal outside Cyprus.

## C. ARBITRATION

Arbitration in Cyprus refers to the process of resolving disputes through arbitration procedures in the Republic of Cyprus. Arbitration is an alternative dispute resolution method that allows parties to resolve their conflicts outside of traditional court litigation.

The legal framework for arbitration in Cyprus is primarily governed by the International Commercial Arbitration Law of 1987, which is based on the UNCITRAL Model Law. This law applies to both domestic and international arbitration conducted in Cyprus. In addition to this law, there are also provisions for arbitration in the Cyprus Civil Procedure Rules and other relevant legislation.

### Key features of arbitration in Cyprus include:

**ARBITRAL INSTITUTIONS:** Cyprus has several institutions that facilitate arbitration, such as the Cyprus Arbitration and Mediation Centre (CAMC) and the Cyprus Chamber of Commerce and Industry (CCCI). These institutions provide administrative support, appoint arbitrators, and assist in the conduct of arbitrations.

Before the commencement of arbitration proceedings the Parties must have a [valid arbitration agreement](#) to submit their dispute to arbitration. The agreement may be in the form of a separate contract or an arbitration clause within a contract, and it must be in writing.

As a vital part of the arbitration agreement, is the appointment of arbitrators. The parties have the freedom to choose arbitrators, subject to any agreed qualifications or requirements. If the parties fail to appoint arbitrators, the Court can step in and make the appointments.

The arbitration proceedings are conducted in accordance with the agreed rules or procedures. The arbitrators have the power to decide on procedural matters, including the admissibility of evidence, examination of witnesses, and submission of arguments.

Once the arbitration proceedings are concluded, the arbitrators issue an [arbitral award](#). The award is binding on the parties and can be enforced by the courts. The award can only be challenged on limited grounds provided by the law which refer mainly to the mistaken appointment of the arbitrators and their impartiality. The essence of the arbitrator award itself, and the reasons behind an arbitration decision cannot be challenged or overruled by the Supreme Court.

The Cypriot courts play a supportive role in arbitration proceedings. They can assist with interim measures, such as granting injunctions or securing assets. Additionally, the courts can assist in the enforcement or setting aside of arbitral awards.

Cyprus has positioned itself as an arbitration-friendly jurisdiction and has made efforts to promote itself as a regional arbitration hub. It has adopted modern arbitration laws and provides a favorable legal framework for arbitration proceedings. The country's strategic location, strong legal system, and experienced professionals in the field contribute to its attractiveness as a venue for arbitration.

[Domestic arbitration](#) in Cyprus is governed by the Arbitration Law (Cap. 4), which provides for the applicable procedure and powers of arbitrators. the maintenance or sale of goods that are the subject matter of the arbitration.

Cyprus has ratified the [UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 \(New York Convention\)](#) through Law 84/79. Therefore, arbitral awards issued in Cyprus can be registered and enforced in other states signatory to the New York Convention, and vice versa.

**International Arbitration** is governed by Law 101/1987, which is modelled after the UNCITRAL Model Law of 1985. Law 101/87 provides for the procedure to be followed, the duties and powers of the arbitrators and the circumstances in which assistance from the national courts can be required, unless these are agreed by the parties. The national courts can issue interim orders in aid of arbitration irrespective of the seat of arbitration which may be abroad.

## RECENT REFORMS IN CYPRUS PROVISION OF JUSTICE SYSTEM

The justice reform in Cyprus is currently focusing on speeding up the adjudication of backlogged cases and simplifying procedures,

- The House of Representative has recently progressed with the passing of three bills regarding the judicial reform in Cyprus, aiming to separate the Supreme Court into two Supreme Courts i.e. one Supreme Constitutional Court and one Supreme Court as provided for in the 1960 Constitution before the 1964 legislation was enacted.

It is important to mention current efforts focus mainly on measures to speed up the adjudication of backlogged cases, as well as on the implementation of the new Civil Procedure Rules, which will come into force in September 2023, aiming to simplify court procedures.



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