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The new Cyprus Commercial and Admiralty Courts to try cases in English

On May 12th the Cypriot Parliament voted in favour of establishing two new courts of first instance, the Commercial Court and the Admiralty Court, by voting in Law 69(I)/2022 on the Establishment and Functioning of a Commercial Court and Admiralty Court - the "Law".

In order to allow for the proceedings to be conducted in English, the Parliament also voted to amend the Cypriot Constitution as Greek and Turkish are the official languages of the Cypriot Courts.

Under Articles 15 and 29 of the Law, the judge may, upon petition by one of the parties and when deemed to be in the interests of justice, allow for all filings and court proceedings to be conducted in English.

Commercial Court

The Cypriot Commercial Court will have non-exclusive jurisdiction to try commercial disputes (a) for matters in dispute if the value is over €2.000.000; and (b) of any value arising from arbitration, intellectual property, and competition law.

Under the provisions of the Law, the Court's jurisdiction extends to instances where:

- the cause of action takes place within the Cypriot district in which the Court sits;
- the respondent/defendant or any of the respondents/defendants resides or works in, or in the case of legal entities has its registered office or base of operations within, the district of the Court;
- both parties agree in writing, regardless of whether the parties reside or work in, or in the case of legal entities have their registered office or base of operations outside, the Republic; and
- jurisdiction is established through the *Acquis Communautaire*, international treaties, or any rule of Private International Law.

Commercial disputes pending before the District Court can be transferred to the Commercial Court where the hearing is yet to commence and back to the District Court if the judge considers that jurisdiction has not been established and/or one of the parties has made the relevant petition and is deemed appropriate to do so.

Article 2 of the Law defines "commercial dispute" as one arising from or that is related to:

- Commercial documents or contract;
- Purchase, sale, import, or export of goods;
- Transport of goods by land, air, or pipeline;
- Exploitation of oil, gas, or other natural resources;
- Insurance and reinsurance;
- Market operation or transfer of shares or other financial or investment instruments;
- Provision of services except for medical and other related services or any service pertaining to an employment contract;
- Manufacturing of vehicles;
- Commercial Agency;
- Competition;
- Shareholder disputes that are regulated by any supervisory authority in the Republic;
- Intellectual property and related rights;
- Arbitration.

Admiralty Court

Article 18 of the Law states that the new Admiralty Court is given exclusive first instance jurisdiction to hear and adjudicate upon all maritime claims of any amount.

Under Article 2 of the Law "maritime claim" includes claims arising from or related to:

- Ownership or possession of a vessel;
- Disputes between co-owners over profits, possession, or employment;
- Enforcement of a claim over damage, loss of life, or physical injury following collisions;
- Mortgage or lien over a vessel;
- Vessel damage;
- Death or personal injury of any person arising from any matter or circumstance connected to the vessel;
- Loss or damage to goods carried by the vessel or disputes arising out of a contract for the carriage of goods;
- Salvage, towage, or pilotage;
- Goods or materials supplied to the ship for operation;
- Ship building, repair, equipment, berth charges, or other charges;
- Vessel expenditure;
- Crew employment;
- Ship loans;
- Ship arrest.

Article 19 of the Law stipulates that the Admiralty Court has jurisdiction over both actions in *personam* as well as in rem. Furthermore, the Admiralty Court's jurisdiction over maritime claims in the first instance is established through the Law, the *Acquis Communautaire*, international treaties, an agreement of the parties regardless of:

- Whether the vessel in question is under Cypriot ownership or registered in the Cyprus Ship Registry;
- The parties' place of permanent residence or work or, in the case of legal entities, the place of their registered office or base of operations;
- Where the claim arises;
- In case of mortgages and/or other encumbrances, either legal or equitable, regardless of whether these are registered in Cyprus.

The Commercial and Admiralty Courts will start hearing cases when the Supreme Court of Cyprus issues a relevant notification in the Official Government Gazette.

Whether the new Court will be a success will depend on many variables, not least of which is the quality of the judiciary that will hear cases and the counsel who will appear before it. Whilst an excellent command of the English language will be essential for all stakeholders, a realistic and commercial approach that is practical and based on common sense will be the key ingredient for its success.