

# ARBITRATION

## Cyprus



# Arbitration

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into applicable laws, conventions and treaties, and prominent local arbitral institutions; arbitration agreements; constitution, jurisdiction and competence of arbitral tribunals; arbitral proceedings; interim measures and sanctioning powers; awards; proceedings subsequent to issuance of award; influence of local legal traditions on arbitrators; professional or ethical rules; third-party funding; regulation of activities.

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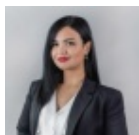
**Legislative reform and investment treaty arbitration**

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## LAWS AND INSTITUTIONS

### Multilateral conventions relating to arbitration

Is your jurisdiction a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to international commercial and investment arbitration is your country a party to?

The Republic of Cyprus is a signatory of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) as of 29 December 1980. By virtue of the reciprocity and commercial reservations made, the New York Convention applies in Cyprus only as to the recognition and enforcement of awards made exclusively in the territory of another contracting state, and in relation to differences arising out of legal relationships, whether contractual or not, that are considered commercial by virtue of the Cyprus laws. The New York Convention was ratified in Cyprus through the enactment of the Law on the Convention and Enforcement of Arbitral Awards of 1979 (Law 84/1979) (the Ratification Law 84/1979). Cyprus has also ratified the Washington Convention of 1965 concerning awards issued by the International Centre for Settlement of Investment Disputes and has signed the Convention on Conciliation and Arbitration of the Conference on Security and Cooperation in Europe of 1992.

*Law stated - 08 February 2023*

### Bilateral investment treaties

Do bilateral investment treaties exist with other countries?

According to the UNCTAD Investment Policy Hub (as at January 2023), the Republic of Cyprus is party to 18 bilateral investment treaties of which 17 are in force and one has been signed, but has not yet entered into force. Cyprus is also a party to a number of other treaties with investment provisions, either bilateral or multilateral.

*Law stated - 08 February 2023*

### Domestic arbitration law

What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

In Cyprus, domestic arbitral proceedings are governed by the Arbitration Law, Cap.4 (Cap.4) , whereas arbitrations disputes of international and commercial nature are governed by the International Commercial Arbitration Law 1987 (Law 101/1987) . Both Cap.4 and Law 101/1987 govern the matter of enforcement of awards as well.

Article 2 of Law 101/1987 provides that an arbitration is considered as 'international', provided that (1) at the time of the conclusion of the arbitration agreement, the parties have their place of business in different states; (2) the place of arbitration or the place of performance of a substantial part of the obligations deriving from the commercial relationship of the parties or the place with which the subject matter of the dispute is most closely connected is situated outside the country where the parties have their place of business; or (3) the parties have expressly agreed that the subject matter of the arbitration agreements relates to more than one country.

*Law stated - 08 February 2023*

## Domestic arbitration and UNCITRAL

Is your domestic arbitration law based on the UNCITRAL Model Law? What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?

Cap.4 is based on the English Arbitration Act of 1950, whereas Law 101/1987 is almost identical to the UNCITRAL Model Law of 1985, the only major addition being the inclusion of the definition of the term 'commercial arbitration'.

*Law stated - 08 February 2023*

## Mandatory provisions

What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

Article 6 of Cap.4 provides that, in the absence of an express agreement made by the parties to the contrary, the provisions of the First Schedule of Cap.4 shall apply on all domestic arbitrations regarding, inter alia, the examination of witnesses and the production of documents. Within the context of international commercial arbitrations, mandatory rules in Law 101/1987 are limited to the issue, the annulment and the recognition and enforcement of the arbitral awards.

*Law stated - 08 February 2023*

## Substantive law

Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Article 28 of Law 101/1987 provides that the arbitral tribunal shall decide the substance of the dispute in accordance with the law chosen by the contractual parties. If there is no agreement of the parties on the applicable law on the merits, the arbitral tribunal should apply the law determined by the conflict of laws rules that is considered applicable.

*Law stated - 08 February 2023*

## Arbitral institutions

What are the most prominent arbitral institutions situated in your jurisdiction?

The most prominent arbitral institutions, which have been established in order to administer arbitration proceedings in Cyprus, are the following:

The Cyprus Arbitration and Mediation Centre (CAMC)

11 Florinis Street

1065 Nicosia

Cyprus

<https://camc.org.cy>



The Cyprus Eurasia Dispute Resolution and Arbitration Center (CEDRAC)

6 Diogenous Street

Engomi

1516 Nicosia

Cyprus

<http://www.cedrac.org>

The CAMC Arbitration Rules , which were updated and revised in 2022, contain detailed provisions as to the appointment, removal and remuneration of arbitrators; the place of arbitration; and the costs of the arbitral process.

*Law stated - 08 February 2023*

## ARBITRATION AGREEMENT

### Arbitrability

Are there any types of disputes that are not arbitrable?

Under common law, certain disputes are considered as non-arbitrable, such as criminal matters, fraud, family matters or any other disputes that give rise to public policy implications. Further, the Arbitration Law, Cap.4 (Cap.4) provides that it does not apply to any proceedings of an arbitral tribunal that is conducted on the basis of the Trade Disputes (Conciliation, Arbitration and Inquiry) Law or in relation to any arbitral award that such tribunal issues.

*Law stated - 08 February 2023*

### Requirements

What formal and other requirements exist for an arbitration agreement?

Both Cap.4 and the International Commercial Arbitration Law 1987 (Law 101/1987) expressly provide that an arbitration agreement must be in writing.

More specifically, article 2(1) of Cap.4 provides that an arbitration agreement means an agreement in writing for the submission of current or future disputes to arbitration, irrespective of whether the arbitrator is determined in it or not.

Article 7 of Law 101/1987 provides that an arbitration agreement is an agreement by which all or certain disputes in a defined legal relationship that have arisen or that may arise are submitted to arbitration, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement. An agreement is considered to be in writing if it is contained:

- in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunications that provide a record of the agreement; or
- in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another.

The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement,

provided that the contract is in writing and the reference is such as to make that clause part of the contract (article 7(3) of Law 101/1987).

*Law stated - 08 February 2023*

## **Enforceability**

**In what circumstances is an arbitration agreement no longer enforceable?**

In general terms, an arbitration agreement is a separate agreement from the main contract; therefore, even in the case of allegations of illegality and fraud in the main contract, such allegations do not necessarily lead to the non-arbitrability of the dispute. This is also supported by article 16 of Law 101/1987.

Further, in the case of death of one of the parties, the arbitration agreement is still valid and enforceable and should be executed by the executor or administrator of the estate of the deceased or by the inheritors of the latter (article 4 of Cap.4).

Of course, an arbitration agreement may no longer be enforceable if one of the parties files with the court a dispute that is covered by the arbitration agreement and the other party does not object to the jurisdiction of the court (ie, by filing an application to set aside or stay the court proceedings).

*Law stated - 08 February 2023*

## **Separability**

**Are there any provisions on the separability of arbitration agreements from the main agreement?**

Article 16(1) of Law 101/1987 provides that an arbitration agreement is separate from the other clauses of the main agreement. A decision by the arbitral tribunal that the contract is null and void shall not necessarily lead to the invalidity of the arbitration clause.

*Law stated - 08 February 2023*

## **Third parties – bound by arbitration agreement**

**In which instances can third parties or non-signatories be bound by an arbitration agreement?**

The parties to an arbitration agreement are usually its formal signatories; nevertheless, there are exceptions that bind persons that have not executed an arbitration agreement, such as agency, succession, assignment or transfer, trustee in bankruptcy and others.

*Law stated - 08 February 2023*

## **Third parties – participation**

**Does your domestic arbitration law make any provisions with respect to third-party participation in arbitration, such as joinder or third-party notice?**

Both Cap.4 and Law 101/1987 remain silent as to the possibility for a third party to participate in arbitration by way of joinder or third-party notice; thus, such participation is not permitted without the consent of such third party.

*Law stated - 08 February 2023*

## Groups of companies

Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the 'group of companies' doctrine?

In general terms, only parties that have agreed to arbitrate can be obliged to do so. The applicability of the 'group of companies' doctrine has not been examined by Cyprus courts yet. However, Cyprus courts are expected to adopt the stance of English courts that have denied the application of this doctrine, unless expressly agreed by the parties ( *Peterson Farms v C&M Farming Ltd* [2004] EWHC 121).

*Law stated - 08 February 2023*

## Multiparty arbitration agreements

What are the requirements for a valid multiparty arbitration agreement?

There are no provisions in Cap.4 or in Law 101/1987 as to the validity of a multiparty arbitration agreement, and no further requirements are imposed than those indicated above. Nevertheless, it is advisable for the parties in a multiparty arbitration agreement to agree on the procedure to be followed in the context of the potential arbitration proceedings, including the matter of nomination of arbitrators.

*Law stated - 08 February 2023*

## Consolidation

Can an arbitral tribunal in your jurisdiction consolidate separate arbitral proceedings? In which circumstances?

Domestic arbitration laws remain silent as to the possibility of consolidation of separate arbitral proceedings.

*Law stated - 08 February 2023*

## CONSTITUTION OF ARBITRAL TRIBUNAL

### Eligibility of arbitrators

Are there any restrictions as to who may act as an arbitrator? Would any contractually stipulated requirement for arbitrators based on nationality, religion or gender be recognised by the courts in your jurisdiction?

Cyprus law does not set any restrictions as to who may act as an arbitrator, nor any restrictions as to the religion or gender of the potential arbitrator. Further, active judges may not act as arbitrators, though retired or former judges may be appointed to act so.

Additionally, article 11(1) of Law 101/1987 provides that no person shall be precluded by reason of nationality from acting as arbitrator, unless otherwise agreed by the parties, meaning that the parties are free to preclude an arbitrator due to his or her nationality.

Given that Cyprus is a common law jurisdiction, it is expected that the Cyprus courts will follow the reasoning of the English case of *Jivraj v Hashwani* [2011] UKSC 40, where it was found that an arbitrator is not a worker but an independent provider of services and therefore the provisions of the Employment Equality (Religion or Belief) Regulations 2003 were not binding.

*Law stated - 08 February 2023*

## Background of arbitrators

### Who regularly sit as arbitrators in your jurisdiction?

In most situations, both practising lawyers as well as experts sit as arbitrators in Cyprus, depending on the nature of the dispute. For example, members of the Cyprus Scientific and Technical Chamber usually act as arbitrators in disputes concerning their field.

*Law stated - 08 February 2023*

## Default appointment of arbitrators

### Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

Article 10 of Cap.4 provides for a default mechanism of appointment. More particularly, where the arbitration agreement provides for the appointment of one arbitrator and the parties do not agree on his or her appointment, or where the appointed arbitrator refuses to act or he or she is not capable of acting and there is no provision in the arbitration agreement as to his or her replacement, or where the parties or the two arbitrators are free to appoint an umpire or a third arbitrator but they do not, or where the umpire or the third umpire who has been appointed refuses to act or is not capable of acting and there is no provision in the arbitration agreement as to his or her replacement, any party may serve to the rest of the parties a written notice for the appointment of an arbitrator, an umpire or a third arbitrator. If no appointment is made within seven clear days from the service of the said notice, the court may, after a party's application, appoint an arbitrator, an umpire or a third party.

A similar default procedure for the appointment of arbitrators is provided in article 11 of Law 101/1987.

*Law stated - 08 February 2023*

## Challenge and replacement of arbitrators

### On what grounds and how can an arbitrator be challenged and replaced? Please discuss in particular the grounds for challenge and replacement, and the procedure, including challenge in court. Is there a tendency to apply or seek guidance from the IBA Guidelines on Conflicts of Interest in International Arbitration?

Article 9 of Cap.4 provides for the power of the court to remove an arbitrator, upon request of a party, if such arbitrator is not or cannot be impartial, whereas article 13 of Cap.4 provides for the power of the Court to remove an arbitrator, upon request of a party, if such arbitrator neglects to act with due speed in taking up and proceeding with the reference and issuing his or her award. Further, article 20 of Cap.4 provides for the power of the court to remove an arbitrator where the latter misconducted him or her or the proceedings, or where the arbitral award has been improperly procured. When an arbitrator is removed, the court may, upon request, appoint a new arbitrator in replacement of the person who was removed (article 14 of Cap.4).



Article 12(2) of Law 101/1987 provides that an arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence, or if he or she does not possess qualifications agreed to by the parties. If this is the case, the parties are free to agree on a procedure for challenging the arbitrator. Failing such an agreement, a party who intends to challenge the arbitrator shall, within 15 days after becoming aware of any circumstance referred to in article 12(2), send a written statement to the arbitral tribunal of the reasons for the challenge (article 13(2) of Law 101/1987). Unless the challenged arbitrator withdraws from his or her office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge. If this procedure is unsuccessful, the challenging party may request, within 30 days of having received notice of the decision rejecting the challenge, the court to decide on the challenge (article 13(3) of Law 101/1987).

Moreover, article 14 of Law 101/1987 provides that if an arbitrator becomes de jure or de facto unable to perform his or functions or fails to act without undue delay, his or her mandate terminates whether he or she withdraws from office or whether the parties agree on the termination; otherwise, any party may request the court to decide on the termination of the mandate.

Where the mandate of an arbitrator is terminated, under article 13 or 14 of Law 101/1987, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

*Law stated - 08 February 2023*

### **Relationship between parties and arbitrators**

What is the relationship between parties and arbitrators? Please elaborate on the contractual relationship between parties and arbitrators, neutrality of party-appointed arbitrators, remuneration and expenses of arbitrators.

The relationship between the arbitral tribunal and the parties is one based on contract. As a contractual relationship, the parties to the contract need to establish the terms of the relationship that will include the basis for remuneration of the arbitrator's services and expenses.

In institutional arbitrations, the fees are generally fixed by the institution. If it is an ad hoc arbitration, there needs to be agreement on the level of fees and what they cover. Further, in an ad hoc arbitration where the arbitrator administers the whole procedure, it is usual for the arbitrator to take a deposit on account of fees.

Neutrality and impartiality of the arbitral tribunal are essential requirements of arbitration in order for decisions to be made without fear of bias.

*Law stated - 08 February 2023*

### **Duties of arbitrators**

What are arbitrators' duties of disclosure regarding impartiality and independence throughout the arbitral proceedings?

The arbitral tribunal has a general duty to be impartial (article 9 of Cap.4 and article 12 of Law 101/1987).

In relation to the arbitrators' duties of disclosure, specific reference is made to article 12 of Law 101/1987, which provides that when a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. Such duty is a continuing one from the date of his or her appointment until the end of the arbitration proceedings.

*Law stated - 08 February 2023***Immunity of arbitrators from liability**

To what extent are arbitrators immune from liability for their conduct in the course of the arbitration?

Cyprus law is silent on the matter of arbitrators' immunity; therefore, the legal rules regulating the immunity of arbitrators are mainly dependent on the case law that will (but has not yet been) be developed in Cyprus on the matter.

*Law stated - 08 February 2023***JURISDICTION AND COMPETENCE OF ARBITRAL TRIBUNAL****Court proceedings contrary to arbitration agreements**

What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

By virtue of article 8 of the Arbitration Law, Cap.4 (Cap.4), any party to the court proceedings may (any time after their appearance but before the filing of any pleadings) request the stay of the court proceedings, and the court will may stay the proceedings if satisfied that there is no reason justifying the non-referral of the matter to arbitration in accordance with the arbitration agreement and that the applicant was and is still willing to do whatever necessary for the conduct of the arbitration proceedings.

Similarly, in accordance with article 8 of the International Commercial Arbitration Law 1987 (Law 101/1987), if court proceedings are initiated for a matter that is the subject matter of an arbitration agreement, a party may (before the filing of any pleadings) request the referral of the matter to arbitration and the court must order so, unless the court finds that the arbitration agreement is invalid, inactive or unenforceable.

Nevertheless, if all the parties to the court proceedings submit to the jurisdiction of the court, the latter will try the matter in question despite the existence of an arbitration agreement.

*Law stated - 08 February 2023***Jurisdiction of arbitral tribunal**

What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated, and what time limits exist for jurisdictional objections?

Under article 16(1) of Law 101/1987, an arbitral tribunal has the competence to rule on its own jurisdiction and to examine any issues relating to the existence or validity of the arbitration agreement.

An objection as to the jurisdiction of the arbitration tribunal should be raised by any party before the submission of its statement of defence.

If the arbitral tribunal decides that it does have jurisdiction to adjudicate the matter referred thereto, any party may, within 30 days after having received notice of the ruling, object to the arbitral tribunal's ruling before the court. The court will decide on the matter of jurisdiction, and such decision will be final and not subject to appeal. The arbitral tribunal may continue the arbitration proceedings and even issue an award pending the court's final determination on the matter of jurisdiction.

*Law stated - 08 February 2023*

## **Distinction between admissibility and jurisdiction of tribunal**

Is there a distinction between challenges as to the admissibility of a claim and as to the jurisdiction of the tribunal?

Challenges as to the admissibility of a claim may include, inter alia, matters such as the fulfilment of pre-conditions before the reference to arbitration, whereas the most common jurisdictional challenges include, inter alia, disputes over the identity of the parties, identity of the contracts governed by the arbitration agreement, the validity of the arbitration agreement or whether a particular remedy can be awarded by the arbitral tribunal.

As was indicated in the English cases of *NWA v NVF* [2021] EWHC 2666 (Comm) and *Republic of Sierra Leone v SL Mining Ltd* [2021] EWHC 286 (Comm), the distinction between challenges as to 'admissibility' and challenges as to 'jurisdiction' is a significant one since the matter of admissibility does not allow any room for intervention by the courts, but it can only be decided by the arbitral tribunal, thus providing a finality to the arbitral award relating to this matter. To the contrary, the courts are able to adjudicate on an arbitral tribunal's finding over jurisdictional matters.

Although English judgments are non-binding to Cyprus courts, they are persuasive precedents for Cyprus courts; therefore, it is expected for the latter to adopt the conclusions in the aforesaid cases.

*Law stated - 08 February 2023*

## **ARBITRAL PROCEEDINGS**

### **Place and language of arbitration, and choice of law**

Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings? How is the substantive law of the dispute determined?

Article 20(1) of the International Commercial Arbitration Law 1987 (Law 101/1987) provides that the parties to the arbitration agreement are free to determine the seat of the arbitration proceedings (ie, the procedural law of the dispute). Failing such an agreement, Law 101/1987 provides the power to the arbitral tribunal to choose the seat of arbitration by taking into account all the circumstances of the case and the convenience of the parties. Further, article 20(2) of Law 101/1987 provides that, irrespective of the above and in the absence of any agreement of the parties to the contrary, the arbitral tribunal may hold meetings, hearings, witnesses' or experts' examinations, autopsies or document review in any place the arbitral tribunal considers appropriate.

As to the language of the arbitral proceedings, article 22 of Law 101/1987 provides that the parties are free to determine the language of the arbitration proceedings. Failing such an agreement, the arbitral tribunal shall choose the language to be used in the proceedings.

In relation to the determination of the substantive or governing law of the dispute, in the case of an international commercial arbitration, article 28 of Law 101/1987 provides that the arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules that it considers applicable.

*Law stated - 08 February 2023*

## Commencement of arbitration

### How are arbitral proceedings initiated?

Pursuant to article 24(3) of the Arbitration Law, Cap.4 (Cap.4), arbitral proceedings are deemed to be commenced when one of the parties to the arbitration agreement serves the other party (or parties) with a notice of arbitration.

Similarly, by virtue of article 21(1) of Law 101/1987, the arbitral proceedings are deemed to be commenced on the day the notice of arbitration is served on the person to whom the notice of arbitration is addressed to.

It is worth mentioning that the Cyprus Arbitration and Mediation Centre Rules, as well as The Cyprus Eurasia Dispute Resolution and Arbitration Center Rules, provide for specific requirements as to what should be included in a notice of arbitration (eg, a demand that the dispute be referred to arbitration, the names and contact details of the parties, and the identification of the arbitration agreement that is invoked, etc).

*Law stated - 08 February 2023*

## Hearing

### Is a hearing required and what rules apply?

In accordance with the First Appendix of Cap.4, the parties shall submit themselves to examination by the arbitrators or the umpire, on oath or affirmation, in relation to the matter in dispute. Additionally, the witnesses shall, if the arbitrators or the umpire consider fit, be examined on oath or affirmation. Therefore, Cap.4 provides only the option of an oral hearing.

Article 19 of Law 101/1987 provides that the parties are free to determine the way that the arbitration hearing will be conducted. Failing such an agreement, the arbitral tribunal decides on the way the arbitration will be conducted (ie, either by way of an oral hearing or by the exchange of written or documentary evidence and materials, an option that is explicitly provided by article 24 of Law 101/1987).

*Law stated - 08 February 2023*

## Evidence

### By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

Cap.4 states that any party to an arbitration agreement may apply to the court for the issuance of a summons requiring any person to attend the proceedings for the purposes of examination or the production of any document.

In accordance with article 19 of Law 101/87, an arbitral tribunal is free to determine the rules in relation to the evidence produced before it. Further, in accordance with article 26 of Law 101/87, unless otherwise agreed by the parties, the arbitral tribunal may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal, and may also require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his or her inspection.

Further, IBA Rules on Evidence and UNCITRAL Notes on Organising Arbitral Proceedings provide useful guidance, and they are usually adopted by parties in the context of arbitration proceedings.

*Law stated - 08 February 2023*



## Court involvement

In what instances can the arbitral tribunal request assistance from a court, and in what instances may courts intervene?

By virtue of Cap.4, the courts may assist in the issuing of witness summonses (article 17), in the taking of evidence, in issuing security for costs orders or other interim injunctions, in ordering the disclosure of documents, in the preservation of any assets that are the subject matter of the arbitration proceedings or in the appointment of a receiver (article 26 and Second Appendix of Cap.4).

In accordance with article 27 of Law 101/1987, the arbitral tribunal or any of the parties may seek the assistance of the court in relation to the conduction of evidence; the court may execute such request within its competence and according to its rules on taking evidence. Further, the courts may assist with the appointment of arbitrators (article 11), the removal of arbitrators (articles 13 and 14) and the replacement of arbitrators (article 15).

*Law stated - 08 February 2023*

## Confidentiality

Is confidentiality ensured?

Both Cap.4 and Law 101/1987 are silent in relation to the matter of confidentiality in the context of arbitral proceedings; therefore, the parties may choose to determine this issue in the context of the arbitration agreement.

Nevertheless, as a matter of practice, neither the award nor any of the evidence or information from the arbitration proceedings can be divulged to anyone not involved with the arbitration, nor may be used in other judicial or other similar proceedings, unless the court decides that there is an overriding interest of justice that requires that a document be divulged.

*Law stated - 08 February 2023*

## INTERIM MEASURES AND SANCTIONING POWERS

### Interim measures by the courts

What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

Cyprus courts and arbitral tribunals have concurrent jurisdiction to grant interim measures of protection, such as, inter alia, security for costs, discovery of documents, taking and preserving evidence, and the appointment of an interim receiver, etc, either before the commencement or during the pendency of the arbitral process. Pursuant to article 26 of the Arbitration Law, Cap.4 (Cap.4), the Cyprus courts have the power to issue a number of orders within the context of an arbitration, including the provision of interim relief. Article 9 of the International Commercial Arbitration Law 1987 (Law 101/1987) provides that Cyprus courts have the power to issue provisional measures of protection in aid of the arbitration proceedings in both Cyprus-seated and foreign arbitrations.

*Law stated - 08 February 2023*

### **Interim measures by an emergency arbitrator**

Does your domestic arbitration law or do the rules of the domestic arbitration institutions mentioned above provide for an emergency arbitrator prior to the constitution of the arbitral tribunal?

There is no explicit provision in domestic arbitration legislation regarding the appointment of an emergency arbitrator prior to the constitution of the arbitral tribunal.

*Law stated - 08 February 2023*

### **Interim measures by the arbitral tribunal**

What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

According to article 17 of Law 101/1987, interim measures of protection may include an order for security for costs, discovery of documents, taking and preserving evidence, the appointment of a receiver, and the preservation or inspection of any property that is the subject of the arbitration.

*Law stated - 08 February 2023*

### **Sanctioning powers of the arbitral tribunal**

Pursuant to your domestic arbitration law or the rules of the domestic arbitration institutions mentioned above, is the arbitral tribunal competent to order sanctions against parties or their counsel who use 'guerrilla tactics' in arbitration? May counsel be subject to sanctions by the arbitral tribunal or domestic arbitral institutions?

Although there is no explicit provision as to the imposition of any sanctions on counsels or parties in cases of 'guerrilla tactics', Cyprus legislation provides that the arbitral tribunal bears the general duty to regulate the proceedings in a proper way so as to guarantee the efficacy of the arbitral process.

*Law stated - 08 February 2023*

## **AWARDS**

### **Decisions by the arbitral tribunal**

Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required? What are the consequences for the award if an arbitrator dissents?

Cyprus arbitration legislation does not impose any requirement for a unanimous decision to be made by the arbitral tribunal. The parties to an arbitration agreement are entirely free to specify the way by which the decisions of the tribunal are made. In the absence of any agreement to the contrary, article 29 of the International Commercial Arbitration Law 1987 (Law 101/1987) provides that the issue of an award can be made by majority. In multi-membered arbitral tribunals, the presiding arbitrator is entitled to decide all procedural matters if there is a consent by the parties or the rest of the members of the tribunal.

*Law stated - 08 February 2023***Dissenting opinions****How does your domestic arbitration law deal with dissenting opinions?**

There is no provision in Cyprus domestic arbitration law as to dissenting opinions in a multi-appointed arbitration.

*Law stated - 08 February 2023***Form and content requirements****What form and content requirements exist for an award?**

Unless the parties have agreed otherwise, article 7 of Law 101/1987 provides that the issued award must be in writing, signed by the tribunal, contain the reasoning and mention the seat of arbitration as well as the date of its issue. In addition, the award should be duly authenticated in order to be enforced in another state that is signatory of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

*Law stated - 08 February 2023***Time limit for award****Does the award have to be rendered within a certain time limit under your domestic arbitration law or under the rules of the domestic arbitration institutions mentioned above?**

Neither the Arbitration Law, Cap.4 (Cap.4) nor Law 101/1987 provides time limits for the issuance of an arbitral award. The same applies for the Cyprus Arbitration and Mediation Centre and Cyprus Eurasia Dispute Resolution and Arbitration Center Rules regarding domestic arbitrations.

*Law stated - 08 February 2023***Date of award****For what time limits is the date of the award decisive and for what time limits is the date of delivery of the award decisive?**

The date of the award is of relevance in cases where the arbitral tribunal wishes, on its own initiative, to correct any clerical or typographical errors in the award (article 33 (3) of Law 101/1987 – only allowed within 30 days of the date of issue), whereas the date of the delivery of the award is of relevance in cases where a party wishes (1) to file an application to correct or interpret (article 33(1) – within 30 days of the date of delivery); (2) to set aside an award (article 34 (3) – within 3 months of the date of delivery); or (3) to request the arbitral tribunal to issue an additional award regarding claims that have been presented in the arbitral proceedings but have been omitted from the award (article 33(4) – within 30 days of the date of delivery).

*Law stated - 08 February 2023***Types of awards**

## What types of awards are possible and what types of relief may the arbitral tribunal grant?

By virtue of the domestic arbitration legislation, there are different types of awards that an arbitral tribunal may issue, such as preliminary awards, partial awards, interim awards, consent awards, costs awards, and final and additional awards. Further, all types of general remedies can be awarded by an arbitral tribunal if there is no agreement of the parties to the contrary. However, as a matter of public policy, the arbitral tribunal does not have jurisdiction to issue an award concerning non-arbitrable disputes.

*Law stated - 08 February 2023*

## Termination of proceedings

### By what other means than an award can proceedings be terminated?

Pursuant to article 32 (2) of Law 101/1987, the arbitration proceedings are also terminated in cases where the party that commenced the proceedings withdraws its claim, there is an agreement between the parties and the arbitral tribunal may consider that the continuance of the proceedings is unnecessary or impossible under the circumstances.

Article 30(1) of Law 101/1987 provides that international arbitration proceedings may also be terminated where a settlement of the dispute is reached. In such a case, the terms of the settlement agreement may be recorded as an arbitral award. Article 25(a) of Law 101/1987 also provides that upon the failure of the applicant to submit its statement of claim in compliance with the provisions of article 23(1), then the proceedings can be terminated by the tribunal.

*Law stated - 08 February 2023*

## Cost allocation and recovery

### How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

The allocation of costs of the arbitral proceedings is a matter of full discretion of the arbitral tribunal. Article 23(1) of Cap.4 provides that any provision to the arbitration agreement as to the costs of the proceedings shall be void. As a rule, costs are awarded in favour of the successful party in the proceedings in accordance with laws of the Republic of Cyprus.

*Law stated - 08 February 2023*

## Interest

### May interest be awarded for principal claims and for costs, and at what rate?

Article 22 of Cap.4 provides that, unless the arbitral award directs otherwise, the amount awarded under the award shall carry interest as from the date of the award and at the same rate as the court judgment debts, which is currently fixed at 2.25 per cent per annum. Law 101/1987 does not contain a relevant provision and the matter lies on the discretion of the tribunal.

*Law stated - 08 February 2023*

## PROCEEDINGS SUBSEQUENT TO ISSUANCE OF AWARD

### Interpretation and correction of awards

Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties' initiative? What time limits apply?

Pursuant to article 16 (b) of the Arbitration Law, Cap.4 (Cap.4), unless the parties have agreed otherwise, the arbitral tribunal has the power to correct any typing mistakes or errors to the arbitral award that were the result of an omission or oversight.

Article 33(1) of the International Commercial Arbitration Law 1987 (Law 101/1987) provides that, within 30 days of the date of delivery of the award, a party may request by notice to the other party the arbitral tribunal to correct any clerical or typographical errors in the award. Likewise, the arbitral tribunal may correct any error of this type but on its own initiative within 30 days of the date of the award pursuant to article 33(3) of Law 101/1987. Article 33(1) of Law 101/1987 also provides that within 30 days of the date of delivery of the award, a party may request by notice to the other party the arbitral tribunal to interpret a specific point or part of award that is ambiguous.

Unless the parties have agreed otherwise, within 30 days of the date of delivery of the award, a party, by notice to the other party, may request the arbitral tribunal to make an additional award regarding claims that have been presented in the arbitral proceedings but have been omitted from the award. The arbitral tribunal shall issue any additional awards within 60 days of the submission of such a request (article 33(4) of Law 101/1987). All these deadlines may be extended by the tribunal, if necessary (article 33(5) of Law 101/1987).

*Law stated - 08 February 2023*

### Challenge of awards

How and on what grounds can awards be challenged and set aside?

Under Cap.4, the parties are entitled to request the annulment of the arbitral award before the competent district court. The judgment issued by the district court in relation to this matter is subject to appeal before the Court of Appeal.

Article 34 of Law 101/1987 provides an exhaustive list of limited grounds for setting aside an arbitral award (ie, the contractual incapacity of the parties or the invalidity of the arbitration agreement, the lack of proper notice as to the appointment of the tribunal or of the arbitral proceedings, the fact that the award deals with a dispute not falling within the terms of the submission to arbitration or that it goes beyond the scope of the submission, the fact that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, the fact that the subject matter of the dispute is not capable of settlement by arbitration under the laws of Cyprus, and the fact that the recognition and enforcement of the award would contradict to the public policy of Cyprus).

*Law stated - 08 February 2023*

### Levels of appeal

How many levels of appeal are there? How long does it generally take until a challenge is decided at each level? Approximately what costs are incurred at each level? How are costs apportioned among the parties?

Judicial review on the merits of the case is not allowed under the domestic arbitration legislation. Nevertheless, an appeal can be filed before the Court of Appeal against the judgment issued by the district court concerning an

application to set aside the arbitral award. As far as the costs are concerned, the latter follows the event.

*Law stated - 08 February 2023*

## **Recognition and enforcement**

**What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?**

Article 35 of Law 101/1987 provides that a foreign arbitral award shall be recognised as binding, unless there are valid grounds for refusing its recognition and enforcement.

Article 36 of Law 101/1987 sets out the limited grounds on which an application for recognition and enforcement of an arbitral award must be rejected (ie, the contractual incapacity of the parties or the invalidity of the arbitration agreement, the lack of proper notice as to the appointment of the tribunal or of the arbitral proceedings, the fact that the award deals with a dispute not falling within the terms of the submission to arbitration or that it goes beyond the scope of the submission, the fact that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, the fact that the award has not yet become binding on the parties or has been set aside or suspended by the competent court of the country in which, or under the law of which, the arbitration took place, the fact that the subject matter of the dispute is not capable of settlement by arbitration under the laws of Cyprus, and the fact that the recognition and enforcement of the award would contradict to the public policy of Cyprus).

An application filed before the Cyprus courts needs to be accompanied with the duly authenticated original award or a duly certified copy of the same, as well as the arbitration agreement.

Further, Cap.4 provides that a domestic arbitral award can be enforced in Cyprus in the same manner as a domestic civil judgment or order issued, if the leave of the court is granted.

*Law stated - 08 February 2023*

## **Time limits for enforcement of arbitral awards**

**Is there a limitation period for the enforcement of arbitral awards?**

Cyprus legislation does not impose any time limits as to the enforcement of arbitral awards.

*Law stated - 08 February 2023*

## **Enforcement of foreign awards**

**What is the attitude of domestic courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?**

In terms of foreign awards set aside by the courts at the place of arbitration, article 36(1)(a)(e) specifies that the recognition and enforcement of a foreign arbitral award in Cyprus may be refused in cases where the award has been set aside or suspended by the competent court of the country in which, or under the law of which, the arbitration took place. There is no reported case law so far in relation to this matter; nevertheless, it is expected that the Cyprus courts will follow the territorial approach supported by English case law, which constitutes precedent for them.

*Law stated - 08 February 2023*

## **Enforcement of orders by emergency arbitrators**

Does your domestic arbitration legislation, case law or the rules of domestic arbitration institutions provide for the enforcement of orders by emergency arbitrators?

There is no reference to emergency arbitrators within the Cyprus arbitration legislation.

*Law stated - 08 February 2023*

## **Cost of enforcement**

What costs are incurred in enforcing awards?

Enforcement of both domestic and foreign arbitral awards requires the payment of legal fees, stamp duty and service expenses. In cases where the enforcement of the award is permitted, there are also resulting costs in enforcing against the defendant's assets.

*Law stated - 08 February 2023*

## **OTHER**

### **Influence of legal traditions on arbitrators**

What dominant features of your judicial system might exert an influence on an arbitrator from your jurisdiction?

Although the vast majority of the arbitration practitioners in Cyprus follow an international common law approach, there are still some aspects of the Cypriot legal tradition that may exert an influence on them, such as the production or disclosure of documents, the preparation of written statements and the cross-examination of the witnesses on their testimony. In cases where the parties to the proceedings include legal entities, companies' offices may also testify before the tribunal.

*Law stated - 08 February 2023*

## **Professional or ethical rules**

Are specific professional or ethical rules applicable to counsel and arbitrators in international arbitration in your jurisdiction? Does best practice in your jurisdiction reflect (or contradict) the IBA Guidelines on Party Representation in International Arbitration?

There are no specific professional or ethical rules applicable to counsel and arbitrators in international arbitration in Cyprus. However, practising lawyers should provide their services and perform their duties in accordance with the general regulatory regime, which includes the Lawyers' Law, Cap.2 as well as the Lawyers' Code of Conduct Regulations of 2022. The IBA Guidelines on Party Representation in International Arbitration reflect best practice in the jurisdiction to a great extent.

*Law stated - 08 February 2023*

### Third-party funding

#### Is third-party funding of arbitral claims in your jurisdiction subject to regulatory restrictions?

Third-party funding is not available in Cyprus. The parties to the proceedings are responsible for the funding of the arbitral claims, and the tribunal is not entitled to issue any order against a third party who is not party to the proceedings regarding the costs of the arbitral process.

*Law stated - 08 February 2023*

### Regulation of activities

#### What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

When visiting the jurisdiction, foreign practitioners involved in Cyprus-seated arbitrations should ask for their own advice on visa requirements. No visa is required for EU nationals, whereas non-EU nationals are usually requested to obtain a visa before they enter the country. Similarly, when considering their fee arrangement, foreign practitioners should pay attention to tax implications, such as the payment of VAT, which depends on the background of the parties to the proceedings.

*Law stated - 08 February 2023*

## UPDATE AND TRENDS

### Legislative reform and investment treaty arbitration








Are there any emerging trends or hot topics in arbitration in your country? Is the arbitration law of your jurisdiction currently the subject of legislative reform? Are the rules of the domestic arbitration institutions mentioned above currently being revised? Have any bilateral investment treaties recently been terminated? If so, which ones? Is there any intention to terminate any of these bilateral investment treaties? If so, which ones? What are the main recent decisions in the field of international investment arbitration to which your country was a party? Are there any pending investment arbitration cases in which the country you are reporting about is a party?

In Cyprus, arbitration is currently considered as the preferred means of resolving disputes, as an alternative to the litigation proceedings, since it provides a speedy and confidential process. The most common types of disputes referred to arbitration relate to infrastructure and commercial cases. The past few years also witnessed the willingness of the Cypriot judges to provide their assistance to pending arbitrations, whether they have their seat in Cyprus or abroad. Arbitration's popularity in Cyprus is reflected in a number of recent developments, such as the reform of the Civil Procedure Rules, the recent revision of the Cyprus Arbitration and Mediation Centre Arbitration Rules, as well as the organisation of seminars and conferences in order to educate professionals in more depth.

*Law stated - 08 February 2023*



## Jurisdictions

	<b>Australia</b>	DLA Piper
	<b>Austria</b>	OBLIN Attorneys at Law
	<b>Azerbaijan</b>	GRATA International
	<b>Bulgaria</b>	Kambourov & Partners, Attorneys at Law
	<b>Canada</b>	Singleton Urquhart Reynolds Vogel LLP
	<b>China</b>	Jingtian & Gongcheng
	<b>Croatia</b>	Gugić, Kovačić & Krivić
	<b>Cyprus</b>	N. Pirilides & Associates LLC
	<b>Ecuador</b>	TADIR Dispute Resolution
	<b>Egypt</b>	Shahid Law Firm
	<b>France</b>	Aramis Law Firm
	<b>Germany</b>	rothorn legal
	<b>Ghana</b>	Kimathi & Partners Corporate Attorneys
	<b>Greece</b>	Lambadarios Law Firm
	<b>Hong Kong</b>	RPC
	<b>Hungary</b>	Bán, S.Szabó, Rausch & Partners
	<b>Italy</b>	Legance
	<b>Japan</b>	Anderson Mōri & Tomotsune
	<b>Liechtenstein</b>	Gasser Partner
	<b>Luxembourg</b>	Baker McKenzie
	<b>Macau</b>	JNV - Lawyers and Notaries
	<b>Mexico</b>	FloresRueda Abogados
	<b>New Zealand</b>	Arbitra International
	<b>Pakistan</b>	Axis Law Chambers
	<b>Romania</b>	STOICA & Asociații

	<b>Slovakia</b>	Barger Prekop sro
	<b>South Korea</b>	Kim & Chang
	<b>Spain</b>	King & Wood Mallesons
	<b>Sri Lanka</b>	FJ & G de Saram
	<b>Sweden</b>	Advokatfirman Delphi
	<b>Switzerland</b>	Bär & Karrer
	<b>Thailand</b>	Duensing Kippen
	<b>Turkey</b>	YAZICI Attorney Partnership
	<b>United Arab Emirates</b>	Afridi & Angell
	<b>United Kingdom</b>	Macfarlanes LLP
	<b>USA</b>	Draper & Draper LLC
	<b>Uzbekistan</b>	Putilin Dispute Management
	<b>Zambia</b>	Corpus Legal Practitioners