

# THE REFORM OF THE JUSTICE SYSTEM IS A GAMBLE

## CRITICISM OF THE GOVERNMENT AND SUPREME COURT OVER NEW DELAYS

PRESIDENT OF THE CYPRUS BAR ASSOCIATION, DR CHRISTOS CLERIDES, HAS GIVEN FORBES A COMPREHENSIVE INTERVIEW ABOUT JUSTICE AND THE COURSE OF THE LEGAL PROFESSION. HE REFERS TO THE NEW DELAY THAT HAS RISEN IN THE REFORM OF THE JUSTICE SYSTEM, POINTING THE FINGER AT THOSE HE CONSIDERS RESPONSIBLE. HE ALSO NOTES THAT EVERY LAWYER AND LAW FIRM INVOLVED IN THE 'GOLDEN PASSPORTS' SCANDAL IS BEING INVESTIGATED. HE ANALYSES THE PROBLEMS CYPRIOT LAW FIRMS ARE EXPERIENCING AS A RESULT OF THE EU SANCTIONS PLACED ON RUSSIA BECAUSE OF THE INVASION OF UKRAINE, WHILE ALSO EXPLAINING THE USEFULNESS OF THE CREATION OF THE CYPRUS ARBITRATION AND MEDIATION CENTER.

INTERVIEW WITH EVAGORAS PROKOPIOU

**W**hat is the biggest gamble - aim the Cyprus Bar Association (C.B.A.) has been called on to achieve in the immediate future?

There are a lot of things on the C.B.A.'s daily agenda. The biggest gamble is the completion of the (justice system) reform. The reform is supposed to start in January 2023 but it seems there will be a small delay in achieving this goal. This, unfortunately, is due to two factors. First, according to the briefing I have had, the necessary actions were not taken for the staffing of a new Appeals Court with the correct and adequate administrative staff. This is on the government, which should have taken action bearing in mind that the legislation was passed around mid-July 2022. The second reason is the Supreme Court's demand for there to be a postponement of the launch of the new Court of Appeal, the new Supreme Constitutional Court, and the new Supreme Court new until 1/7/2023. Again,

I believe that since the law was published in the Government Gazette in early August 2022, there was sufficient time to speed up the procedures, i.e. convening the first Supreme Judicial and Advisory Council, forming it into a body, announcing the 21 positions and completing the interviews within September, by the beginning of October at the latest, with decisions on appointment by the end of October at the latest. Following on from that, vacant positions of Presidents, of Supreme and District courts, which resulted from the appointments of some Presidents to the positions at the Appeals Court and the new Supreme Constitutional and/or Supreme Court, could be filled, if not by the end of December, at the latest by the end of January, so there would be no need for any postponement. There have been delays but it's not the end of the world.

It was our fate to head towards the reform with some delay and we hope that it will not be a long one. The Supreme Court asked for until July 1st. The C.B.A., under the circumstances, can only consent to the postponement but has

requested that the time for the new Court of Appeal and the third instance courts to start operating be accelerated. I believe that this is possible, as long as there is goodwill and cooperation of all involved.

**Where are we on the much-anticipated reform of Cyprus' justice system? Do you believe there is still a way to go?**

In relation to the reform of second instance and third instance jurisdiction, the problems that exist at the moment are the ones I mentioned above. There are still various other problems when it comes to first instance jurisdiction, so the district and special courts, where there is also the largest number of cases. This is unfortunately where the relevant authorities are moving at a snail's pace. For example, they have been inattentive to issues related to online dispute resolution (ODR), the recording and transcribing of proceedings, the creation of Small Claims courts, to issues related to the appointment of additional retired lawyers and/or experienced lawyers to take up cases which are overdue, to finding suitable offices for additional judges, to the referring



of cases to arbitration and mediation. I am sorry to note that, for all of these issues, instead of acting with the speed necessitated by the circumstances, the relevant authorities, taking into account that the Cypriot judiciary is on the map of countries with a tragic performance in terms of solving civil and administrative law cases, we are acting as if nothing is wrong. Everyone should have rolled up their sleeves and worked, overtime if possible, for us to be able to make up for the lost time. There is still a way to go. The establishment of a court service has been set in motion but is not expected to be operational, in my estimation, before the end of 2023, possibly 2024, and civil procedure institutions are expected to be in place in September 2023 in September. The C.B.S. is pushing in every direction on an almost daily basis to speed up the proceedings. Unfortunately, in Cyprus, urgent matters move at a snail's pace.

### **SANCTIONS ON RUSSIA**

**To what extent are the European Union's sanctions on Russia "blocking"**

### **local law firms?**

The package of sanctions against Russia has certainly also impacted law firms, particularly those who deal with clients from Russia. Firstly, firms that have Russian clients named on the sanctions list have been affected. Further to this, firms that manage companies with Russian interests have been affected, as it is not possible to provide services in the form of opinions, which Russian nationals who reside in Russia and control these companies, or lawyers in Russia acting on their behalf or on behalf of Russian entities, could request. Direct legal advice on matters concerning the management of these companies from law firms in Cyprus serving this clientele was affected.

A problem was also created with international trusts, since, initially, the liquidation of these trusts was requested since the beneficiaries were Russian nationals resident in Russia and/or entities based in Russia. Some extensions have now been granted but there are still dysfunctional issues

in relation to international trusts connected to Russian nationals resident in Russia or beneficiaries based in Russia.

Also, the sector of shipping and the firms that serve it will face issues in connection to ships with the Cyprus flag transporting oil or gas even to countries in the east. This will be for as long as a specific price for the sale and disposal of Russian gas and/or oil will apply. A relatively small number of firms that offered this type of service, mainly large law firms, are affected. The majority of law firms will not be directly affected by the measures and restrictions but will certainly be limited indirectly due to the Russian-Ukrainian war's impact on the economy.

### **PENALTIES FOR THE «GOLDEN PASSPORTS»**

**How far from completion is the internal investigation of the Cyprus Bar Association regarding the Cyprus Investment Program and what are its findings so far?**

C.B.A. has, at an intense pace, moved

ahead on its investigations into the investment program for the so-called gold passports. Quite a large number of cases have been adjudicated, and fines of several tens of thousands of euros, specifically over 100,000, closer to 200,000, have been imposed and collected at various law firms. The key law firms involved have already been investigated, charges have been brought and the cases are proceeding with the goal of us being very close to completing our investigations by the end of the year.

As I have said many times, a relatively small number of firms are involved in a large number of passports, and quite a few offices have passed the checks successfully as nothing objectionable has been found by the investigation. For some firms, written recommendations have been made to further strengthen the procedures they follow in general for issues related to AML and KYC. The important thing is that the message was sent that the C.B.A. is a serious watchdog for compliance with procedures and legislation, but at the same time also an aide and consultant to the firms with the aim of improving controls and the quality of service offered in this field.

## A USEFUL TOOL

**How will the creation of the Cyprus Arbitration and Mediation Center be of use and what role will it play?**

The usefulness of the creation of the Cyprus Arbitration and Mediation Center is huge. The C.B.A. at last has an official tool to use where experts can resolve issues, lawyers with the skills to be mediators. A large number of cases can be resolved through the Center's mediation and arbitration process. According to the Court Law 14/60, article 36, in any civil process there is the possibility of referring the adjudication of the dispute to arbitration where the disputed disagreement presupposes a long examination of documents or scientific or on-site research or the disputed disagreement concerns issues of accounts. These provisions of Article 36 should be extended by amendment so as to provide the court with the possibility of referral to arbitration in other instances.

As President, I had asked the competent Arbitration and Mediation Committee to examine the issue of amending and expanding article 36 of the Law so that in the future the courts would have broader authority to refer the resolution of various issues to arbitration.

Pilot programs in arbitration and/or mediation tribunals should also be conducted



## UNFORTUNATELY, IN CYPRUS, URGENT MATTERS MOVE AT A SNAIL'S PACE

and relevant long-pending mediation regulations should be established.

**You recently referred to two legislative proposals that you are working on at this time, what are the proposals and what is their purpose?**

The C.B.A. has, in addition, put before the Ministry of Justice and Attorney General a proposal for a law to change and amend the Law on Lawyers. The drafting of the bill by the Ministry of Justice is in its final stages. According to this bill, the register of lawyers maintained by the Supreme Court will be transferred to the Council of the C.B.A. and those lawyers registered therewith or who will be registered in the future shall be liable to pay an annual fee and may, if they attend certain hours of lifelong learning, be registered on the register of legal practitioners. In case of failure to pay the annual fee and/or complete the hours, this right will not exist, unless the dues are paid and the further education hours are additionally completed.

Furthermore, a statute of limitations will be set for lawsuits against the C.B.A. Council and/or the Legal Council and the Council would be empowered to determine the annual fee that lawyers must pay for the renewal of the license to practice the profession.

Also, the right of lawyers who are accused of serious disciplinary offenses to appear in court being limited, for example after their conviction by a criminal court or even the Supreme Court. Their appearance in such an instance would constitute contempt of court in itself until their case is tried.

There are also pending, before the Parliament, various law proposals concerning the improvement of the system of execution of judicial decisions, as well as the necessity for certain types of contracts to be drawn up only by lawyers such as, for example, sales documents and or rental documents which are filed at the Land Registry. I do not expect, apart from the first bill I mentioned, for them to be passed before the Presidential elections, given that the House is in its final meetings for 2022 and then the Parliament will effectively weaken until the election of the new President.

## TECHNOLOGY IN THE SERVICE OF THE LEGAL PROFESSION

**Can technology and innovation provide new areas of interest and engagement to the legal profession?**

Technology and innovation certainly offer new areas of interest and engagement to the legal profession. My assessment is that Cyprus, albeit more slowly, but gradually, will now be led toward the creation of Virtual Offices. More work will be done from home, and large law firm buildings, or large, at any rate, building-wise law offices, will gradually disappear. Technology, especially online, remote communication, allows lawyers to communicate with their clients, witnesses, etc., via the Internet, and thus less time will be spent in their offices.

In addition, research is now done online so that the lawyer does not need to visit his library or the library of the Supreme Court or the Legal Service. In addition, online sites offer a wide range of legal services, including through smart technology and intelligence, documents, opinions, etc., which in the past would require hours and hours of research for someone to be able to advise and or deliver to their client.

Knowledge of technology and its introduction in law firms is now a sine qua non. Anyone who doesn't follow it will miss the train and find themselves out of the profession. The same goes for processing court cases. We are now heading into an era where registrations will gradually be done only electronically and a large number of adjudication of cases will also be done online at a distance (ODR).

Technology and innovation are also, I would say, the greatest challenge in the field of justice.

