

**Recommendations of the Cyprus Bar for dealing
with Backlog in Cyprus**

A. The Erotocritou Report June 2021 touches upon the issue of backlog in Cyprus at all levels.

It is unacceptable that litigation in Cyprus will usually take six years for the Appeal and 4-7 for first instance cases. Justice delayed is justice denied.

We feel that there is need for more data in order to take proper decisions.

In recent years we had conflicting numbers availed.

In this respect we would suggest that in the Task force to examine and supervise the matter experienced advocates nominated by the Bar Council should participate.

Categorization of backlog cases essential and depending on the numbers appointment of an adequate number of judges and recorders to deal with them.

1. We would in addition suggest:

There is need for specialization for the determination of first instance cases. Specialization means speed and quality. Judgements can then be rendered within days or a week or two. Not months or sometimes years.

This involves the creation of specialized Divisions

District Courts

(Specialised Courts to be amalgamated with District Courts to avoid undermining their status and efficiency).

Proposed three divisions.

1. Family, Probate and Property Division.

2. Commercial, Companies – Bankruptcy, Labour

3. General Affairs and Torts

2. Revision of the Scales of jurisdiction. Judges depending on their knowledge and experience can undertake the trial of cases provided they have a minimum judicial experience in civil cases of 5 years and the necessary academic and experience in the field within their Division. The notion that Judges can do a little bit of everything, ie Jack of all trades and expert in none, has long been overtaken by the need for specialisation.

3. Revision of the criteria for new judicial appointments. The Ministry of Justice has an experts Report on the need to introduce detailed criteria that should perhaps be introduced by way of legislation. Years of experience for new appointments may be revisited. Ensure that appointees have Court experience in litigation and pass an examination to ensure appointments are on merit.

4. Day in Day out hearings in all cases provided adequate time and notice is given to advocates. The practise of fixing pilot cases on a day in day out basis with one month's notice or sometimes less to be avoided. We have received numerous complaints of advocates. It is questionably whether the pilot scheme for backlog cases will ensure quality in the administration of justice or will deal efficiently with the backlog. Sources are devoted to it at the expense of creating a new backlog and quality is sacrificed on the altar of the need to deal with numbers as a matter of priority.

5. Introduction of parts of Dyson rules in all cases not only backlog.

6. Referral to Arbitration or referral for an expert report to dispose of the need of long and conflicting expert evidence

must be utilised and be mandatory in defined cases including backlog cases.

7. Recorders. In this respect senior advocates with 10 years' experience to be appointed to deal with backlog cases on conditions similar to those applicable in England. Retired judges and/or retired advocates may also be considered as candidates for dealing with backlog.
8. Target of dealing with backlog to be revised and scaled down to 3 years instead of the target of 40% up to 2026.
9. Backlog Definition. Cases not determined within two years if not characterised as complicated must be dealt as backlog.

10. Introduction of “Master” for procedural pre-trial matters.

Judges specially assigned within their Division to deal with pre-trial issues.

11. More stenotypists – Introduce recording of the proceedings.

12. E-justice to cover hearing pre-trial issues and extend also to hearings on merits in defined areas and or parts of the evidence.

13. Filing electronically of all documents for new and old cases in parallel with manual filings or fillings by post or email. The introduction of a reasonable transition period is a must . Parliament enacted a law that this should be 12 months but the Supreme Court declared it unfortunately unconstitutional as this falls in the domain of procedure in

the exclusive domain of the Supreme Court to regulate as per the Judgement of the Court.

14. Referral directly to the Supreme Court of matters which affect a large number of cases for immediate pilot decisions.

Necessary to amend civil procedure rules to allow this.

15. Administrative support for judges and appointment of rapporteurs.

16. Training on case management. For example, one month prior to hearing agreed, bundle of trial documents, 3 weeks skeleton arguments, one week authorities list. Ensure that in all backlog cases matter is brought before the judge forthwith.

Observe uniformity.

17. Assize Court President + 2 District Judges with 5 years' experience, instead of one Senior District Judge and one District Judge.
18. Important to avoid new backlog.
19. Important to ensure the quality of judgments and not to be driven by a system that strives to get rid of cases to reduce numbers. Mutual respect of judges and advocates essential.
20. Judges school must be the objective for new entrants.
21. Increase the number of new appointments in the light also of the fact that we had a considerable number of retirements recently. The new Judicature Council will enable the new Supreme Constitutional Court and new Supreme Court not to spend much of its time on this issue and hence spend it on trials and judgments.

22. Rethink the pilot schemes for backlog. The transfer of resources and concentration to it conducive to new backlogs. Pressure to deal with numbers is at the expense of Quality.
23. Better utilisation of the time available for hearings .The practise of sitting for a hearing noon or 1pm to finish at 2pm for the day and continue in the same fashion a week or so thereafter conducive to piecemeal trials must stop.

B. The judicial reform with the creation of a new Constitutional Court and new Supreme Court and Appeals Court as per the three Bills pending for more than two years before the House of Representatives is the starting point for a new era in Cyprus Justice . Reservations and endless discussions must come to an end. The bills must be enacted without any further delay.

C. The Nicosia District Court Barracks

The unfit for the purpose and outdated buildings known as the Wolseley Barracks in the Nicosia District Court are not conducive to speedy trials.

By way of background information Sir Garnet Wolseley was the first High Commissioner 1878 in Colonial Cyprus

The Barracks were originally an English Girls School with class rooms consisting of three buildings

The then District Court of Nicosia is now in occupied Serai Sq. It was built 1904.

The now new District Court of Nicosia since the intercommunal troubles 1964, that is the old English School , was transferred to the U.K. War Office and renamed Wolseley Barracks

Pending construction of new Courts, 5-10 years project, immediate steps are necessary to improve working conditions for all.

We believe that this will facilitate the process of speedy justice.

1. Three additional new buildings were constructed and added to the

Block of the three old ones. It is desirable to:

(a) Connect them as in the rain and heat extremely difficult to communicates between all 6 blocks to do different cases on the same day in different blocks as is usual.

(b) Refurbish them internally and externally

(c) Provide Wi-Fi and electricity for Advocates laptops

(d) Toilets for Advocates in each building

(e) Renew climate control.

2. Construct a separate building for Court Registry for Civil cases in

Nicosia. Unacceptable to Q outside a window in open air to be served

by the registry, with ancient methods of stamps and seals all manual

in an electronic age.

3. Family Court and Labour Court to be relocated near the existing

District Courts as time consuming to travel on the same day for

Advocates to separate locations to deal with their cases in all three

courts.

4. Increase parking facilities for advocates and users.

5. Security to be revisited. We had incidents of destruction of documents and bullying of witnesses.

6. Cafeteria facilities for users to be improved. Sitting outside in the cold or in 43c• not very pleasant.

7. Storage space for exhibits and registry files.

Needless to say, that some of the above are applicable also to other Districts.

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