Commercial Arbitration

Cyprus

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Infrastructure
1 The New York Convention
Is your state a party to the New York Convention? Are there any noteworthy declarations or reservations?
Cyprus is party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) since 1981 and made two noteworthy declarations. It declared that: (i) it will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting state, and (ii) it will apply the Convention only to disputes arising out of legal relationships, whether contractual or not, that are considered commercial in nature under the national law. The Convention has been transposed into national legislation by virtue of Law 84/1979.

2 Other treaties
Is your state a party to any other bilateral or multilateral treaties regarding the recognition and enforcement of arbitral awards?
Yes, Cyprus is party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

3 National law
Is there an arbitration act or equivalent and, if so, is it based on the UNCITRAL Model Law? Does it apply to all arbitral proceedings with their seat in your jurisdiction?
There are two legislative arbitration acts that run parallel: (i) Arbitration Law, Chapter 4, as amended (Cap. 4), and (ii) International Commercial Arbitration Law 101/1987, as amended (hereinafter, Law 101/1987). Law 101/1987 is the Cypriot adaptation of the 1985 UNCITRAL Model Law on International Commercial Arbitration, which applies exclusively to international commercial arbitrations (i.e., arbitration between parties who have their place of business in different states that pertains to matters arising from relationships of a commercial nature). All the mandatory provisions contained in the UNCITRAL Model Law were adopted verbatim by Law 101/1987, regulating only international commercial arbitrations. Otherwise, all other arbitral proceedings that pertain to, for example, purely domestic arbitrations are regulated by Cap. 4, which is based on the 1950 UK Arbitration Act.

4 Arbitration bodies in your jurisdiction
What arbitration bodies relevant to international arbitration are based within your jurisdiction? Do such bodies also act as appointing authorities?
There is no statutory international arbitration body in Cyprus. However, the Cyprus Chamber of Commerce and Industry acts regularly as an appointing authority, on the basis of pertinent contractual arbitration clauses, which appoints ad hoc arbitral tribunals, but does not act as an arbitration body itself. Additionally, there are some privately owned arbitration bodies, such as the Cyprus Arbitration and Mediation Centre and the Cyprus Eurasia Dispute Resolution and Arbitration Center.

5 Foreign institutions
Can foreign arbitral providers operate in your jurisdiction?
There is no restriction as to the nationality of the arbitral provider and the choice of arbitral provider is at the discretion of the parties, in accordance with the arbitration agreement.

6 Courts
Is there a specialist arbitration court? Is the judiciary in your jurisdiction generally familiar with the law and practice of international arbitration?
No, there is no specialist arbitration court. Courts will deal with enforcement, set-aside and injunction actions.
International arbitration is a fast-emerging practice in Cyprus and the judiciary is well-acquainted with it, because an increasing number of commercial contracts involving Cypriot entities are including arbitration clauses.

Agreement to arbitrate
7 Formalities
What, if any, requirements must be met if an arbitration agreement is to be valid and enforceable under the law of your jurisdiction? Can an arbitration agreement cover future disputes?
Pursuant to Law 101/1987, an arbitration agreement may be in the form of a contractual clause within the contract between the parties or be the object of a separate agreement. For an arbitration agreement to be valid, it must be written, that is, (i) a document signed by all parties; (ii) exchanged correspondence; (iii) telex or telegraph; (iv) any other means of telecommunication which record the agreement; or (v) in the
form of exchange of Statements of Claim and of Defence where one party does not dispute the other party’s claim that an arbitration agreement exists. Additionally, if the agreement to arbitrate is in the form of an arbitration clause contained within a contractual agreement, the contract must be written in such a way so that the arbitration clause is non-severable. In addition, an arbitration agreement can be made either ex post facto or ex ante, and therefore an agreement to arbitrate may cover past or future disputes.

8 Arbitrability

Are any types of dispute non-arbitrable? If so, which?

Any matter concerning criminal law, family law or which may have public policy implications is considered to be non-arbitrable. Matters concerning public policy may include foreign commercial contracts that would otherwise be considered illegal under Cypriot law. Furthermore, Cap. 4 provides that when a question of whether an arbitration is raised, courts have the competence to decide the question and to cease the effects of any arbitration agreement.

9 Third parties

Can a third party be bound by an arbitration clause and, if so, in what circumstances? Can third parties participate in the arbitration process through joinder or a third-party notice?

A third party cannot be bound by arbitration proceedings to which he has not consented or by an arbitration clause in a contract to which he is not party, since for a contract to be valid and legally binding the free consent of parties competent to contract is required under section 10(1) of Contracts Law, Cap. 149. However, a third party may voluntarily join and/or participate in the arbitration process, provided that the other parties consent to their participation.

10 Consolidation

Would an arbitral tribunal with its seat in your jurisdiction be able to consolidate separate arbitral proceedings under one or more contracts and, if so, in what circumstances? Consent of all the parties is needed in order to consolidate proceedings. Parties are free to make relevant provisions ex ante in their arbitration agreement or agree ex post facto.

11 Groups of companies

Is the ‘group of companies doctrine’ (or any other basis for piercing the corporate veil) recognised in your jurisdiction? Under Cypriot law, there is no jurisprudential or legislative guidance with regard to the applicability of the ‘group of companies’ doctrine. However, according to section 29(1)(c) of the Courts of Justice Law 14/1960, as amended, common law and the principles of equity are applicable in Cyprus, provided that they do not conflict with the Constitution or any legislation of the Republic of Cyprus. This is relevant here because English courts have shown great reluctance to pierce the corporate veil in arbitration cases and have been generally protective of the consensual nature of arbitration. As a result, they tend to only expand arbitration agreements beyond actual signatories in exceptional cases.

For example, in Peterson Farms Inc v CEM Farming Ltd, the English High Court was consider an application to set aside an ICC tribunal’s award, because the tribunal had decided that it had jurisdiction by application of the ‘group of companies’ doctrine. The court held that ‘English law treats the issue as one subject to the chosen proper law of the Agreement and that excludes the doctrine which forms no part of English law’. Nevertheless, the corporate veil may be pierced through other manners, such as apparent/ostensible authority. In view of the above, Cypriot law does not differ greatly from the position in English law.

12 Separability

Are arbitration clauses considered separable from the main contract?

Pursuant to section 16(1) of Law 101/1987:

the arbitral tribunal has jurisdiction to decide on its jurisdiction and to examine questions relating to the existence or the validity of the arbitration agreement. For the purposes of this paragraph [on the jurisdiction of the arbitral tribunal] the arbitration clause which constitutes an integral part of a contract is considered as distinct from the other conditions of the contract. A decision of the arbitral tribunal which declares the contract void does not make the arbitration clause automatically invalid.

In view of this provision, while an arbitration clause may constitute an integral/non-severable part of the contract per se, for the purposes of the arbitral proceedings and the jurisdiction of the tribunal, the tribunal may consider it as a separate agreement and decide on its applicability separately.

13 Competence-competence

Is the principle of competence-competence recognised in your jurisdiction? Can a party to an arbitration ask the courts to determine an issue relating to the tribunal’s jurisdiction and competence?

Under section 16(1) of Law 101/87, an arbitral tribunal has the competence to rule on its own jurisdiction and to examine any objections raised as to the existence or validity of the arbitration agreement. There is no similar provision in Cap. 4.

14 Drafting

Are there particular issues to note when drafting an arbitration clause where your jurisdiction will be the seat of arbitration or the place where enforcement of an award will be sought?

There are particular statutory issues as to the content of an arbitration clause apart from evidencing of the intention of the parties to submit all or any present or future differences or disputes to arbitration. It is advisable, however, to include specific details as to the procedure to be followed in the proposed arbitration, such as, the specific arbitral rules under which the proceedings will take place, the appointment, number and powers of arbitrators, and the seat and language of the arbitration.

Cypriot courts generally take an approach to the construction of arbitration clauses that is friendly to arbitration and there is no particular wording that must be used, but the more specific the terminology used the better, in order to include, for example, torts.

15 Institutional arbitration

Is institutional international arbitration more or less common than ad hoc international arbitration? Are the UNCITRAL Rules commonly used in ad hoc international arbitrations in your jurisdiction?

Ad hoc arbitration is more common because there is no established arbitral institution in Cyprus. The most commonly used rules in contracts involving transactions in Cyprus or involving Cypriot entities are UNCITRAL, LCIA rules and ICC Arbitration Rules.
16 Multi-party agreements

What, if any, are the particular points to note when drafting a multi-party arbitration agreement with your jurisdiction in mind? In relation to, for example, the appointment of arbitrators.

A multi-party provision may stipulate that the arbitration will be initiated as a multi-party proceeding or that the parties or arbitral tribunal are able to involve other parties once proceedings have started through consolidation or joinder.

In multi-party arbitration agreements, the specific provision must designate the way the tribunal is composed. The recommended practice is to assert that the claimants together and the respondents together may nominate one arbitrator each, and, in default of that, all members appointed by the appointing authority.

It must be noted that an ex ante arbitration agreement that establishes a procedure for appointment that does not give each party equal rights will not necessarily mean that it is unenforceable under Cypriot law.

Commencing the arbitration

17 Request for arbitration

How are arbitral proceedings commenced in your jurisdiction? Are there any key provisions under the arbitration laws of your jurisdiction relating to limitation periods of which the parties should be aware?

Pursuant to section 24(3) of Cap. 4, arbitral proceedings are deemed to be commenced when one of the parties to the arbitration agreement serves a notice of dispute to the other party or parties. This will depend also on the particular arbitral rules provided for in the contract. With regard to international commercial arbitrations, section 21(1) of Law 101/1987 provides that arbitral proceedings are deemed to be commenced on the day that the notice of dispute is served on the person to which it is addressed.

With regard to limitation periods, section 24 of Cap.4 provides that the laws governing the statute of limitations for the filing of an action before Cypriot courts apply to arbitral proceedings as well. The statute of limitations under Cypriot law for contractual disputes and torts is six years from the date that the cause of action accrues. This may be from the date of the first breach of the contract in contract cases and when the tort was committed in tort matters. There are also provisions for special cases, such as negligence, nuisance, breach of statutory duty, death or bodily injury due to tort, and contracts pertaining to fees of lawyers, physicians, dentists, architects, civil engineers, contractors, or other independent professionals. These statutes of limitation periods are provided in the general statute of limitation. Law 101/1987 provides that the lapse of any claim that is to be submitted to international commercial arbitration is governed by section 24 of Cap. 4.

Choice of law

18 Choice of law

How is the substantive law of the dispute determined? Where the substantive law is unclear, how will a tribunal determine what it should be?

According to Law 101/1987, the substantive law of the dispute is determined according to the law that the parties have freely chosen in the contract or thereafter by joint agreement. Any reference of the parties to the law or legal system of a specific state is interpreted, unless otherwise provided, as a reference to the substantive law of that state and not as a reference to the conflict of laws rules of that state.

In the event that the parties have not included a choice of law clause in the contract or do not otherwise agree on the applicable substantive law, under Cypriot law the arbitral tribunal is to apply the substantive law foreseen in the conflict of laws rules that the tribunal deems applicable in the particular case. Further, the arbitral tribunal may decide by amiable composition from equity and conscience only in cases of express authorisation by the parties. In all cases, the arbitral tribunal decides on the dispute according to the terms of the contract and takes into account the commercial custom pertaining to the transaction. Even more, there is no similar reference in Cap. 4, but presumably Cypriot law will apply, in Cap. 4 arbitrations, since the said law is mostly used with respect to domestic arbitrations.

Appointing the tribunal

19 Choice of arbitrators

Does the law of your jurisdiction place any limitations in respect of a party’s choice of arbitrator?

Cypriot law does not place any limitation with respect to the parties’ choice of arbitrator. The parties have the right to request removal of an arbitrator on the basis of justifiable suspicion as to the impartiality of judgment or independence or sufficient qualifications.

20 Foreign arbitrators

Can non-nationals act as arbitrators where the seat is in your jurisdiction or hearings are held there? Is this subject to any immigration or other requirements?

There is no restriction as to the nationality of the arbitrator. The choice of arbitrator is entirely at the discretion of the parties, in accordance with their relevant agreement, applicable arbitral institution rules, and/or arbitration clause. However, the relevant work/business permit will have to be obtained by the arbitrator for the duration of the proceedings taking place in Cyprus.

21 Default appointment of arbitrators

How are arbitrators appointed where no nomination is made by a party or parties or the selection mechanism fails for any reason? Do the courts have any role to play?

The parties are free to determine the number of arbitrators. In the event that the parties fail to determine the number of arbitrators the procedure is conducted by three arbitrators. In the absence of an agreement as to the appointment mechanism, three arbitrators are foreseen whereby each party may designate one arbitrator and the two arbitrators jointly designate the third arbitrator. If one of the parties fails to designate an arbitrator within thirty days of a written notification or if the two arbitrators fail to agree as to the third arbitrator within 30 days of their appointment, the third arbitrator may be appointed by the court, upon application by one of the parties. Otherwise, in the absence of an agreement between the parties as to the appointment mechanism, but one arbitrator is foreseen, and the parties fail to agree as to the arbitrator, the arbitrator is appointed by the court, upon application by one of the parties.

22 Immunity

Are arbitrators afforded immunity from suit under the law of your jurisdiction and, if so, in what terms?

There are no laws or rules relating to arbitrator immunity.

23 Securing payment of fees

Can arbitrators secure payment of their fees in your jurisdiction? Are there fundholding services provided by relevant institutions?

The tribunal may require the parties to provide advance deposits in respect of fees and refuse delivery of the award if its fees are not met.
In addition, the privately owned Cyprus Eurasia Dispute Resolution and Arbitration Center offers fundholding services for its arbitrations, yet there is no specialised fundholding service in general.

Challenges to arbitrators

24 Grounds of challenge

On what grounds may a party challenge an arbitrator? How are challenges dealt with in the courts or (as applicable) the main arbitration institutions in your jurisdiction? Will the IBA Guidelines on Conflicts of Interest in International Arbitration generally be taken into account?

Cap. 4 does not contain any express requirements as to the independence, neutrality and/or impartiality of arbitrators. Nevertheless, in accordance with section 20 of Cap. 4, a court may remove an arbitrator where the arbitrator has misconducted him or herself or during the proceedings or where an arbitral award has been improperly procured.

Law 101/87 expressly provides that an arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence, and also requires a court or other authority to have due regard to any qualifications required of an arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator, when appointing an arbitrator. Further, Law 101/87 transposes the disclosure requirement of the UNCITRAL Model Law and imposes an obligation on a person who is approached in connection with his possible appointment as arbitrator to disclose any circumstances that are likely to give rise to justifiable doubts as to his impartiality or independence. While the IBA Guidelines are not binding, they may be taken into account as relevant guidance.

Interim relief

25 Types of relief

What main types of interim relief are available in respect of international arbitration and from whom (the tribunal or the courts)? Are anti-suit injunctions available where proceedings are brought elsewhere in breach of an arbitration agreement?

Courts, upon application by one of the parties, may order interim measures or injunctions, at any time prior to or during the arbitral proceeding, in accordance with section 9 of Law 101/1987. Similarly, Cap. 4 empowers the court to make a number of orders in the context, and in support of, arbitration proceedings. The courts have a broad power under section 32 of the Courts of Justice Law 14/60 to grant interim orders that may take the form of freezing of assets that may be the object of the procedure or orders for sequestration, preservation, or custody of the property that is the object of the procedure. In addition, an arbitral tribunal may also order such interim measures relevant to the object of the dispute, as well as call any one of the parties to provide a guarantee.

Further, CJEU case law effectively makes it impossible for courts of member states to issue anti-suit injunctions to restrain proceedings in another member state, in view of the Brussels I Regulation. However, Cypriot courts may still be prepared to issue anti-suit injunctions relating to proceedings outside the EU on the same basis as they have always done (Gannet Shipping Ltd v NAAFI & Others).

26 Security for costs

Does the law of your jurisdiction allow a court or tribunal to order a party to provide security for costs?

Yes, both courts and arbitral tribunals may order the granting of security for costs.

Procedure

27 Procedural rules

Are there any mandatory rules in your jurisdiction that govern the conduct of the arbitration (eg, general duties of the tribunal and/or the parties)?

Parties are free to agree upon and determine the procedure to be followed in the course of the arbitration proceedings. In the absence of such an agreement, the arbitral tribunal may conduct the proceedings in a manner it deems appropriate in the circumstance.

However, in the absence of an express intention to the contrary, all Cap. 4 arbitration agreements are deemed as containing the implied terms of the First Schedule. In particular, the Schedule postulates that the parties shall, subject to any legal objection, submit to be examined by the arbitrators, on oath or affirmation, in relation to the matter in dispute, and shall produce before the arbitrators all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators may require. Further, the witnesses shall, if the arbitrators think fit, be examined on oath or affirmation.

With regard to international commercial arbitrations, Law 101/87 stipulates that all parties shall be treated with equality and will be given a full opportunity to present their case.

28 Refusal to participate

What is the applicable law (and prevailing practice) where a respondent fails to participate in an arbitration?

In the event that there is no arbitration agreement, a respondent cannot be forced to participate in such proceedings.

Where there is an agreement to arbitrate, but the respondent fails to participate, the arbitral tribunal may continue with the procedure and issue its award on the substance of the dispute, in accordance with the available evidence provided that the respondent has been duly notified under the applicable provisions.

29 Admissible evidence

What types of evidence are usually admitted, and how is evidence usually taken? Will the IBA Rules on the Taking of Evidence in International Commercial Arbitration generally be taken into account?

With regard to Law 101/1987 arbitrations, a tribunal is free to determine the admissibility, relevance, materiality and weight of any evidence, as well as the time, manner and form in which such evidence is to be exchanged and produced by the parties before it, unless the parties expressly agree otherwise.

Cap. 4 only 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. However, no person may be compelled, under any such writ if he could not be so compelled on the trial of an action. Pursuant to section 30 of Cap. 4, in the absence of any other applicable Rules, the Civil Procedure Rules currently in force in the Republic Cyprus apply mutatis mutandis to arbitration proceedings under the said Law.

Further, the IBA Rules are considered as useful guidance to documents and evidence and may be taken into account, at the discretion of the arbitral tribunal or if so agreed between the parties.
30 Court assistance

Will the courts in your jurisdiction play any role in the obtaining of evidence?

In accordance with section 27 of Law 101/1987, the arbitral tribunal, or one of the parties upon approval of the arbitral tribunal, may request the assistance of domestic courts in the adduction of evidence. The courts may satisfy such a request in accordance with their competence and in accordance with rules of evidence.

31 Document production

What is the relevant law and prevailing practice relating to document production in international arbitration in your jurisdiction?

Unless otherwise agreed, the tribunal decides. The IBA Rules on the Taking of Evidence are considered to provide useful guidance to this effect and may be part of the arbitration agreement, or, alternatively, designated as the relevant rules by the arbitral tribunal. The parties generally produce exhibits on which their argumentation rests and may request certain documents to be produced by the opposing party. The arbitral tribunal may seek a court order to induce compliance, or it may draw adverse inferences, if a party fails to comply with an order for production of documents by the tribunal.

32 Hearings

Is it mandatory to have a final hearing on the merits?

It is not mandatory for the tribunal to hold a final hearing on the merits, but it is a matter of the agreed procedure, or, in default of an agreement, the choice of the arbitral tribunal. It is possible to only submit a final written submission in lieu of a final hearing on the merits.

33 Seat or place of arbitration

If your jurisdiction is selected as the seat of arbitration, may hearings and procedural meetings be conducted elsewhere?

With regard to Law 101/1987, the parties to the arbitration agreement are free to determine the place where the arbitration will be conducted. In the absence of an agreement, the tribunal may determine the place of arbitration. It has the authority to convene the hearing at any place it deems fit, for consultation, hearings, or examination of witnesses or experts, on-site visits or examination of documents. With regard to Cap. 4 arbitrations, there are no relevant provisions.

Award

34 Majority decisions

Can the tribunal decide by majority?

If the arbitration is conducted by a multi-member arbitral tribunal, the awards of the tribunal, unless the parties have agreed to the contrary, are decided by majority. Decisions on procedural matters are taken by the presiding arbitrator, if authorised to this effect by the parties to the agreement or by the other members of the tribunal.

35 Limitations to awards and relief

Are there any particular types of remedies or relief that an arbitral tribunal may not grant?

There is no pertinent section in either Cap. 4 or Law 101/1987. It may be assumed that the parties can freely agree on the type of remedies or relief that the arbitral tribunal may grant. In default of such an agreement, the arbitral tribunal may grant the same type of remedies or relief that a court would mutatis mutandis.

36 Dissenting arbitrators

Are dissenting opinions permitted under the law of your jurisdiction? If so, are they common in practice?

Although Cypriot law permits dissenting opinions, they are not very common in practice.

37 Formalities

What, if any, are the legal and formal requirements for a valid and enforceable award?

Under Law 101/87, in the absence of an agreement by the parties as to the form of an arbitral award, the award should be in writing, signed by the tribunal, contain the reasons for the award (unless the parties have agreed to dispense with the reasons) and state the seat of the arbitration and the date of its issuance. It should be also noted that, pursuant to the provisions of the New York Convention of 1958, which has been transposed into national legislation by virtue of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards Law 84/1979, an award should also be “duly authenticated” so as to be enforceable in another contracting state.

38 Time frames

What time limits, if any, should parties be aware of in respect of an award? In particular, do any time limits govern the interpretation and correction of an award?

A court application to set aside an arbitral award has to be made within three months of the notification of the award, otherwise it is inadmissible. In the case that an application for a corrective/ supplementary award is made, the three-month deadline starts from the day that the arbitral tribunal decides upon the application.

Costs and interest

39 Costs

Are parties able to recover fees paid and costs incurred?

Does the ‘loser pays’ rule generally apply in your jurisdiction?

In accordance with Cap. 4, any provision in an arbitration agreement as to costs of the reference or award shall be void. As such, the costs of the reference and award shall be at the discretion of the arbitrators who shall direct to whom and in what manner such costs shall be paid. If no provision is made by an award with respect to the costs of the reference, any party to the reference may within 14 days of the publication of the award (or such further time as a court may direct) apply to the arbitrator for an order directing by and to whom such costs shall be paid, and thereupon the arbitrator shall amend the award by adding thereto such directions as he may think proper with respect to the payment of the costs of the reference to arbitration. There are no similar provisions to this effect in Law 101/1987. Regardless, the “loser pays” or “costs follow events” rule is a usual practice in Cyprus; however, the losing party may be reimbursed a fraction of the fees and costs if the prevailing party is deemed to be contributorily liable.

40 Interest on the award

Can interest be included on the principal claim and costs? Is there any mandatory or customary rate?

In accordance with section 21 of Cap. 4, a sum directed to be paid by an award shall, unless the award otherwise directs, carry interest as from the date of the award and at the same rate as a judgment debt. The current legal interest is 4 per cent. There is no similar provision in Law 101/1987, yet there is no provision stopping the claimant from claiming and/or the arbitral tribunal from granting interest.
Challenging awards

41 Grounds for appeal

Are there any grounds on which an award may be appealed before the courts of your jurisdiction?

With regard to international commercial arbitrations, pursuant to section 34 of Law 101/1987, an arbitral award cannot be challenged on the merits per se, but a court application may be made for the award to be set aside, within three months of the notification/communication of the arbitral award, based on the following grounds:

- one of the parties to the arbitration agreement had no capacity to create legal relations;
- the arbitration agreement was not valid in accordance with the chosen law, or, in the absence of choice, Cypriot law;
- the challenging party was not notified duly and normally of the appointment of arbitrator or the conduct of the arbitral proceeding or was in any way deprived of his right to appeal and present his case;
- the arbitral award refers to a dispute not foreseen by or within the limits of the arbitration agreement or refers to matters outside the limits of the arbitration agreement (if the flawed parts of the award may be separated, then only the ultra vires part of the award will be annulled);
- the composition of the arbitral tribunal or the conduct of the proceeding was in breach of the arbitration agreement or the law;
- the object of the dispute is non-arbitrable in accordance with Cyprus law; or
- the arbitral award violates Cypriot public order.

Further, in accordance with section 20 of Cap. 4, an award may be set aside by the court where an arbitrator has misconducted himself or the proceedings, or an arbitration or award has been improperly procured.

42 Other grounds for challenge

Are there any other bases on which an award may be challenged, and if so what?

Not applicable.

43 Modifying an award

Is it open to the parties to exclude by agreement any right of appeal or other recourse that the law of your jurisdiction may provide?

The only way to challenge an arbitral award is a court application for annulment of the award. It is not possible to waive contractually a right to judicial process. Particularly, pursuant to section 28 of the Contracts Law, Cap. 149, every agreement, by which any party thereto is restricted absolutely from enforcing his or her rights under or in respect of any contract, by the usual legal proceedings in the courts, or which limits the time within which he may thus enforce his or her rights, is void to that extent.

Enforcement in your jurisdiction

44 Enforcement of set-aside awards

Will an award that has been set aside by the courts in the seat of arbitration be enforced in your jurisdiction?

Assuming that the set-aside decision is a regular foreign court judgment, Cypriot courts will (i) recognise and enforce automatically the set-aside decision on the basis of Regulation (EU) 1215/2012, if the seat of arbitration is an EU member state, or (ii) recognise and enforce the set-aside decision on the basis of the Lugano Convention, if the seat of arbitration is Norway, Iceland or Switzerland, or (iii) recognise and enforce the set-aside decision in accordance with the process of the Judgments of Foreign Courts (Recognition, Registration and Enforcement pursuant to Treaty) Law 121(I)/2000, if there is a bilateral treaty to this effect between Cyprus and the country of the seat of arbitration, or (iv) recognise and enforce the set-aside decision in accordance with the relevant common law principles if (i)–(iii) do not apply, unless grounds to the contrary apply, as per the Regulation, the Convention, the bilateral treaty or common law, respectively, such as the judgment being manifestly contrary to Cypriot public policy. In view of the above, the Cypriot courts will not enforce the award, unless the set-aside decision cannot be enforced in Cyprus pursuant to the aforementioned provisions.

45 Trends

What trends, if any, are suggested by recent enforcement decisions? What is the prevailing approach of the courts in this regard?

As mentioned above the New York Convention has been transposed into national legislation. The courts will tend to favour, rather than refuse, enforcement of awards but may refuse enforcement on grounds of public policy, such as illegality.

46 State immunity

To what extent might a state or state entity successfully raise a defence of state or sovereign immunity at the enforcement stage?

National courts generally recognise and enforce arbitral awards issued against another state, which has agreed to submit to arbitration by an ex ante or ex post facto arbitration agreement and will only exceptionally accept the defence of state immunity.

Further considerations

47 Confidentiality

To what extent are arbitral proceedings in your jurisdiction confidential?

There are no express provisions in Cap. 4 or Law 101/87 pertaining to the issue of confidentiality in the context of arbitral proceedings. In view of this, the parties are free to determine this issue at their discretion.

48 Evidence and pleadings

What is the position relating to evidence produced and pleadings filed in the arbitration? Are these confidential? Is there any way that they might be relied on in other proceedings (whether arbitral or court proceedings)?

Information disclosed in arbitral proceedings may be disclosed in other proceedings on the basis of the express consent of the parties to that effect or if the court deems such disclosure to be essential and appropriate in the interests of justice or for public policy reasons.

49 Ethical codes

What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your jurisdiction?

If the counsel and/or the arbitrator are qualified advocates, they will have to follow the 2002 Code of Conduct Regulations of the Cyprus Bar Association, which contains, inter alia, provisions on the required behaviour, trust, professional secrecy, conflict of interest, correct advice and professional liability. Otherwise, they may be subject to disciplinary proceedings.

However, there is no single applicable ethical code for all arbitrators, but they have to follow the code of conduct of the respective body of arbitrators that they are members of. Usual provisions
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Our firm counts over 35 years’ experience and is one of Cyprus’ leading law firms. Our lawyers, all of whom are specialists in their individual fields of practice, provide quality solutions of the highest standards. Combining extensive knowledge of the Cypriot legal system with in-depth understanding of international and EU law, our lawyers are dedicated to assisting clients with their business and legal needs.

Through interaction with both international and Cyprus-based clients, we pride ourselves in our ability to provide expert advice, to an array of multinational corporations, private companies and individuals. By understanding our clients’ business and requirements, we match our people and skills, to ensure clients receive the best service possible.

The firm and its members are highly rated by directories, such as The Legal 500, IFLR1000, Chambers Global and Chambers Europe. Particularly, we have been recommended as a Top-Tier Firm in the 2016 edition of The Legal 500 Europe, Middle East and Africa for Cyprus for banking and finance, dispute resolution, EU and competition, intellectual property and tax) and Tier 2 for Commercial, corporate and M&A work, while the managing and senior partners are listed in the elite “Leading lawyers” guide to outstanding lawyers, for Cyprus, of the same edition. Partners of the firm are active members of numerous professional legal organisations and we have also received the Cyprus Export Award for Services (Legal) from the Ministry of Commerce and the Cyprus Chamber of Commerce and Industry, in recognition of the quality of our work.

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pertain to integrity, impartiality, conflict of interest, competence and confidentiality.

50 Procedural expectations

Are there any particular procedural expectations or assumptions of which counsel or arbitrators participating in an international arbitration with its seat in your jurisdiction should be aware?

Further to any mandatory rules or agreed procedural provisions (please see question 27), Cap. 4 provides that domestic courts have jurisdiction to deal with a number of procedural issues which may arise during an arbitration, such as the securing of the attendance of witnesses, the taking and preservation of evidence, the granting of interim relief or the appointment of a receiver, and the determination of preliminary points of law.
**Kypros Chrysostomides**

Dr Kypros Chrysostomides is the managing partner of the firm, and one of Cyprus’ leading corporate and tax lawyers. He specialises in business law, arbitration and international law, and has published extensively. The 2015 edition of *Chambers Global* includes him among the leading lawyers for the areas of dispute resolution and corporate/commercial, acknowledging his ‘experience’ in the former field of practice and his appointment to the ICC International Court of Arbitration, as well as his ‘deep expertise in corporate and commercial matters with a significant tax angle.’ Kypros is included among the most senior ranked lawyers in *Chambers Europe* 2016 for his expertise in dispute resolution and corporate/commercial work. Furthermore, he is listed among the 250 leading global tax lawyers in the 2015 edition of the *Tax Directors Handbook*. Further, he has been re-appointed as member of the ICC International Court of Arbitration from July 2015 until June 2018. He is also member of the Cyprus Bar Association, the Greek Institute of International Law, the International Law Association, the International Bar Association and the International Fiscal Association. Parallel to his legal career, he has served at different times as government Spokesperson, Minister of Justice and Public Order, and as elected Member of the House of Representatives of the Republic of Cyprus. He has been decorated by the Republic of France in 1991 as Officier de l’Ordre national du Mérite and as Chevalier in 2004, and by Greece in 2004 with the Grand Cross of the Order of the Phoenix.

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**George Mountis**

George Mountis is a partner at the firm and has extensive experience in various fields of international commercial and corporate litigation including shareholders’ disputes, commercial and corporate fraud, injunctions and insolvency proceedings. He also has experience in International Arbitration law and is a Fellow of the Chartered Institute of Arbitrators FCitArb. Furthermore, he is a CEDR (Centre for Effective Dispute Resolution) Accredited Mediator. He also specialises in competition law and is responsible for some of the firm’s most high-profile cases in this area; he holds a diploma in Economics of Competition Law from King’s College London and he is a co-author of the Cyprus Chapter of the *European Competition Journal*, 2005 & 2006. Finally, the 2016 editions of *Chambers Global* and *Chambers Europe* include George among the leading lawyers for Dispute Resolution, acknowledging his ‘excellent communication skills’ when acting on prominent disputes in Cyprus.

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**Alexandros Efstathiou**

Alexandros Efstathiou joined the firm as an associate in September 2015, after having completed his traineeship with the firm. He primarily practises in the areas of EU law, competition law, drafting commercial agreements and international arbitration. He mainly focuses on legal advice on questions of EU and international law, regulatory compliance, and investment litigation. He has also been working on the review of corporate documents, as well as the preparation and provision of legal opinions. At the same time, he has been involved in the preparation and review of court applications and written pleadings for annulment of administrative acts.

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Foley Hoag

Foley’s world-renowned International Litigation & Arbitration practice represents sovereign states before the International Court of Justice (ICJ) in The Hague, the International Tribunal of the Law of the Sea, inter-state arbitration under the auspices of the Permanent Court of Arbitration, and investor-state arbitration before the International Centre for the Settlement of Investment Disputes (ICSID). Foley Hoag also represents states, state-owned and private enterprises, and individuals in international commercial, energy and construction arbitration, conducted under both common law and civil law rules. This includes before all major arbitral fora, including the International Chamber of Commerce (ICC), International Centre for Dispute Resolution (ICDR), London Court of International Arbitration (LCIA), Arbitration Institute of Stockholm Chamber of Commerce (SCC), and tribunals constituted under the UNCITRAL Rules. A top international law firm, lawyers are trained in both the common and civil law systems, fluent in more than 15 languages, and highly regarded for their skill in both written and oral advocacy.

According to Chambers and Partners,

Foley Hoag has one of the world’s most respected and experienced groups of lawyers practising international law. The firm’s lawyers have unique experience in handling complex state-to-state disputes [and] investor-state arbitration.

Chambers continues:

Foley Hoag has been the counsel of choice for sovereign states on issues such as international treaties, international investment law and dispute resolution, delimitation of maritime and land boundaries, sovereign and diplomatic privileges and immunities, international environmental law, the use of force and the law of armed conflict, international trade and sanctions, and human rights.

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Christina Hioureas

Christina Hioureas is the Chair of the United Nations Practice Group at Foley Hoag LLP. She represents States, private entities, and individuals on international disputes and public international law matters, including: investment treaty claims (ICSID, UNCITRAL); international commercial arbitration (ICC, ICDR, Swiss Rules) and litigation; treaty drafting and interpretation; international human rights; law of the sea; and energy law and gas pricing disputes. She also advises States before the United Nations and its bodies. Hioureas has served as a delegate at the UN, handling the Sixth Committee to the General Assembly (Legal Affairs), UN Commission on International Trade Law (UNCITRAL), and matters before the Security Council. She is an elected Term Member at the Council of Foreign Relations and has served as an Adjunct Professor of Law at Fordham University School of Law. She received her JD from the University of California Berkeley School of Law and her BA from UC Berkeley in Political Science and Peace & Conflict Studies. Ms. Hioureas has been recognized in Legal 500, Chambers, and the Global Arbitration Review.

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Constantinos Salonidis

Dr Constantinos Salonidis has extensive experience in international dispute resolution, especially in cases before arbitration panels administered under the ICSID, UNCITRAL and ICC Arbitration Rules. He has represented several European, Asian and Latin American States in investment treaty arbitration matters involving a diverse range of industries such as banking, hydrocarbons, health insurance, tobacco, port operations, steel manufacturing and mining. Constantinos also regularly advises sovereign clients and private parties on a wide range of private and public international law issues, including maritime delimitation, title to territory, treaty negotiation, challenge of arbitral awards, and regulatory compliance with obligations arising from international investment treaties. He is on the Panel of Arbitrators and Mediators of the Kuala Lumpur Regional Arbitration Center, and has also served as an expert for the Organization of American States’ project on the role of the judiciary in international commercial arbitration. He holds graduate, postgraduate and doctorate degrees from Democritus University of Thrace, an LLM from Georgetown University School of Law, and the prestigious Diploma in Public International Law of The Hague Academy of International Law (2006). Constantinos has written extensively on topics of international and international investment law and lectures frequently at several universities and academic institutions in the United States and abroad.

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