

**A SPEECH AT THE FINAL CONFERENCE FOR THE COMPLETION OF THE PROJECT
FOR THE REVIEW OF THE RULES OF CIVIL PROCEDURE**

8 December 2021

“THE REFORM HISTORY AND THE TECHNICAL SUPPORT FROM THE EU”

I believe it is much too early to talk about the history of the reform of the courts in Cyprus and the technical support from the EU. However, I prepared my speech as if I was referring to an audience in the next millennium who knew nothing about what happened in 2021, in Cyprus.

The Reform in Cyprus is the result of the economic crisis and the accumulation of a huge backlog of cases.

During the economic crisis of 2013 and the bailout program, a Troika was appointed to supervise the implementation of the Memorandum of Understanding and the Economic Adjustment Program for Cyprus, which called for structural reforms to restore competitiveness and efficiency. It was recommended that the Cyprus judiciary increases the efficiency and capacity of the civil system and modernise the Civil Procedure Rules.

The Cyprus judiciary at the time was cautious not to have any direct dealings with the Troika, fearing encroachment on its independence. In the first meetings with the Troika in 2014, the judiciary was represented by first instance judges and legal officers.

By 2015 it became clear that the Troika was fully respecting the independence of the Courts and as a result direct meetings were arranged with the President and some members of the Supreme Court.

It was during these meetings that the representative of DG REFORM at the time, Mr Brendan McNamara and the representative of DGJUST Mr Aristotelis Gavriliadis were constantly encouraging us not to be afraid to embark on a reform program and were very reassuring that the European Commission would be ready and willing to offer us technical assistance, should that be requested.

It was Brendan who urged us at the beginning of 2016 to quickly send our application to SRSS. The reason was that as from 2017 the SRSS rules for applying, were to be changed and technical support would become from then on very competitive. He strongly advised us that before we apply, we should try and codify all the structural problems that the Courts in Cyprus were facing.

The Supreme Court under the presidency of Mr Myron Nicolatos, appointed a three-member Committee, to codify all the structural problems of the Cyprus courts.

In June 2016 the Report of the Committee was issued and was immediately adopted by the Supreme Court. It was then presented to the President of the Republic who gave his political support and commitment. Before the end of 2016 an application was sent to SRSS, requesting technical assistance.

This was the beginning of a journey that is still ongoing.

The application of the Supreme Court was accepted by SRSS and the first two projects were under way. The first was the Functional Review of the Cyprus Courts and the second the in-depth Review of the Civil Procedure Rules.

Our first contacts with SRSS were with my good friends Daniele Dotto, Sebastien Renaud and Eirini Georgiopolou. Marteen Verwey, who was the Director of SRSS, was also very supportive during our first inexperienced steps. We warmly thank SRSS, which later became DG REFORM and its present Director Mr Mario Nava for the solid support, without which the reform probably would not have taken place.

On the advice of SRSS, The Supreme Court appointed a Director of Reform, who was to manage and coordinate the projects that were about to begin with the funding of the European Commission.

The Institute of Public Administration of Ireland were appointed as project managers. The team of experts for the Functional Review Project was led by Dr Brian Cawley, former Director of IPA.

After several scoping missions to Cyprus and extensive consultations with all stakeholders, in March 2018 IPA published the Functional Review Report. The team of experts made 21 recommendations which were adopted by the Supreme Court.

Since then, we embarked on a process of implementing the recommendations that were made.

The first phase of the project for the Modernisation of the Rules, started at the beginning of 2017 and was also funded by SRSS. It proved to be the longest, most complex and difficult project, that I was involved in.

IPA was appointed to manage the project and Sir Martin Moore-Bick, a retired Court of Appeal judge in England, was chosen to lead the team of experts. In May 2017 he and his team visited Cyprus for a scoping mission and interviewed all stakeholders.

Before the project started, we had a major setback. Sir Martin Moore-Bick informed us that he could not proceed, as he was appointed by the British Government to lead the Public Inquiry concerning the fire at Grenfell Tower in London.

Finding a new personality to lead the team of experts, proved difficult. After several months of delay and despair, I sought the assistance of a Cypriot Professor in the USA, Dr Symeon Symeonides. Although we did not know each other, he immediately put me in touch with Lord Collins. As he could not himself accept our offer, he was kind enough to introduce me to Lord Dyson.

We consider ourselves extremely fortunate that we were introduced to Lord Dyson, who was a Judge with considerable experience in the Civil Procedure Rules, as for many years he was the Master of the Rolls in England and the Chairman of the Rules Committee.

Lord Dyson immediately accepted our offer to undertake the huge burden of reviewing the Rules. He was assisted by London barrister David Di Mabro and

other members of the IPA team. Marcos Dracos, a Cypriot barrister who practiced both in Cyprus and London, was also appointed as a member of the team.

The Supreme Court on the advice of Lord Dyson established an ad hoc Rules Committee, which was to review and comment on the Drafts that were to be prepared by the Dyson team. The work of the Rules Committee proved extremely valuable as it made sure that the proposed Rules were not only kept simple, but were also compatible with the culture and legal practice of Cyprus.

The President of the committee was Mrs Persefoni Panayi, now President of the Supreme Court. Vice President was Mr Yiasemis Yiasemi Justice of the Supreme Court. The rest of the Judges were Mr Nicolas Santis, at the time President of the Judges Association of Cyprus and today Justice of the Supreme Court, and Judges Mrs Marina Papadopoulou and Mrs Georgia Korfioti. The Registrar was Mrs Marina Eleftheriou. The Lawyer-members were Dr Achilleas Emilianides, Mr Agis Georgiadis, Mr Nikos Makrides and Mrs Theano Mavromoustaki.

After repeated consultations with the Supreme Court, the Bar Association, and other stakeholders, the Dyson team of Experts in June 2019 issued its Report, which became known as the *“the Cypriot Civil Procedure Rules Guiding Drafts”*.

The important development came soon after. The Supreme Court accepted the Guiding Drafts as providing the base for the review of the new Rules.

As the Rules were in English, their translation into Greek was necessary, before they were officially delivered to the Supreme Court.

As a result, we applied for further technical support from the European Commission, which was approved and in 2020 the second phase of the review of the Rules was under way.

By that time, the SRSS team was enriched by a new officer, Mrs Adamantia Manta who replaced Eirini Georgiopolou.

The Council of Europe was the new project manager. Our first contact was with Mr Mikail Lobov, at the time Head of Human Rights Policy, who has recently been appointed a Judge of the European Court of Human Rights. In the front line of the team was Mrs Elena Yurkina and later Mrs Rafaella Hadjikyriacou joined the team.

The second phase of the Rules Project, in many ways, proved extremely difficult. There were four components to be completed with many groups of people being involved. The work of each group depended on the output of the other. The strict time frames were at times difficult to meet and added extra pressure on all those involved.

One of the four components of the project was the translation of the Guiding Drafts into Greek. This huge task was undertaken by advocate George Colocassides and his team. The linguistic review of the translation was carried out by Mr George Georgiou a legal linguist at the Ministry of Justice. The Rules Committee, under the difficult conditions due to Covid, carried out an elaborate review of the final drafts in Greek.

The necessary Forms which were to accompany the Rules, were drafted by a subcommittee headed by Mr Angelos David, a President of Court. The translation of the Forms was undertaken by Mrs Rafaella Hadjikyriacou of the Council of Europe.

The Admiralty Rules which were also outdated, were drafted by Mrs Persefoni Panayi. The translation into Greek, was undertaken by Advocate Mr Akis Montantios. A team of lawyers, experts on Admiralty Practice, were invited to comment on the final draft.

Dr Constantinos Kombos of the University of Cyprus was kind enough to carry out a compatibility check of Part 45 of the Rules which concerned the European Procedures relating to the European Payment Orders.

It is apparent from what I have already said that the second phase of the Rules project could not have finished, if it wasn't for the excellent cooperation of all those involved in the project, but especially the impeccable cooperation that existed amongst the two teams from DG Reform and the Council of Europe, which co-funded parts of the project and for this we thank them wholeheartedly.

As most of you know, the Judges Association of Cyprus was the first to express its approval to the new Rules, to be followed by the Cyprus Bar Association, whose valuable contribution at all the stages of the project, was a key element to its success.

Finally, the Supreme Court following the recommendations of the Rules Committee on 19 May 2021 officially adopted the new Rules. This must be considered a historical decision, that will remain a landmark in the history of the reform of the Cyprus Courts.

From today the new Rules officially become Cypriot ownership.

The newly established Permanent Rules Committee is composed of all previous members with the addition of Dr Marcos Drakos, who was one of the Experts in the Dyson team. The new Permanent Committee with equal number of judges and lawyers, under the chairmanship of Justice Yiasemis, will have the important duty of keeping the Rules under constant scrutiny and recommend, on a regular basis, to the Supreme Court any changes that need to be carried out. Its duty is to make sure that the Rules always remain functional and efficient.

The second component of the Rules Project, which relates to the communication of the Rules to the stakeholders and society in general, was undertaken by Action Global Communication.

The third component which had to do with important Change Management issues, was successfully completed by IPA with the delivery a few days ago of the very important Change Management Strategy Report, which will be extremely useful to us in the future.

The fourth and final component of the project was the training of all judges, lawyers, legal officers, registrars, and court staff on the new Rules. This was undertaken by the Cyprus Judicial Training School. During the last three months

all first instance judges received a two-day training and about 500 lawyers, divided into 10 groups, received a one-day training. One would say that both judges and lawyers had a good taste of what is to come.

We are very grateful to our international trainers Honourable Judges Nic Madge, Seamus Noonan, Sir John Gillen, and London Barristers David McIlroy and Darragh Connell. We are also extremely grateful to all the Cypriot facilitators, judges, lawyers, and registrars alike, for the hard work they put into all the training sessions by leading the small group discussions.

The Cyprus Reform Programme does not end here. It continues with the emphasis on implementation. So far we have completed six projects funded by DG Reform: - The Functional Review, the two projects for the Civil Procedure Rules, the Establishment of Objective Criteria for the Recruitment and Promotion of Judges, the Training of the first Trainers of the Judicial Training School and finally the Establishment of a Digital Audio Recording System.

Right now there are two further pending projects which are also funded by DG Reform. The first concerns the very important project for the Establishment of an Independent Court Service and the second the Digitalization of Insolvency cases. Both projects will finish in about a year's time.

Apart from the funded projects there are many other non-funded projects, which are still pending. Amongst the most important ones, is the introduction of an E-justice System, which will be completed in 2022, the Creation of a new Court of Appeal, the division of the Supreme Court, provided the relevant Bill is

approved by Parliament and finally the establishment of a new Commercial and Admiralty Court.

Equally important is the project that concerns the elimination of the backlog of cases which right now is probably the biggest challenge that the Cyprus courts are facing.

The new Rules will definitely change the scene in the way the Courts will handle cases in the future. However for the new Rules to work, two things must happen.

Firstly, the huge backlog of cases that exists today, must be eliminated.

Secondly, there must be a change of culture in both professions of judges and lawyers.

It is true that the implementation of the reform has been slow and this allowed for project fatigue to step in.

However, the implementation of many of the pending projects that I have mentioned, has now been incorporated in the Recovery and Resilience Plan and therefore we are optimistic that the implementation process will speed up.

The Reforms that we are implementing right now had been planned about 5 years ago. However, a lot of things have changed since, for instance the way the Courts were forced to work online and electronically because of the restrictions imposed due to the Covid pandemic.

I believe now or very soon, we will need to carry out a second phase of reform, as changes in society and the economy are fast and drastic and the court system must remain efficient and updated.

For instance, whilst arbitration and mediation have traditionally been considered as alternative ways to resolve disputes, in more modern legal systems the tendency is for these methods to become the mainstream.

This stems from the realisation that judicial systems all over the world cannot possibly cope with the millions of disputes that arise daily in modern societies. For example, there are thousands of disputes today arising out of the use of the Internet. These and probably many other types of disputes, cannot possibly be resolved with the use of traditional legal methods through the courts.

Our judiciary, following the example of other modern judiciaries, will have to look into the future and prepare itself for the coming of the digitalization era. The Courts in Cyprus will have to make plans for remote hearings, for compulsory mediation, at least for small claims, for online dispute resolution, for judges working more online and for the use of artificial intelligence to resolve small claims.

Only serious disputes can merit traditional hearings. But even these, must be resolved in accordance with the new philosophy, which provides for the resolving of disputes fairly and at proportionate cost, and I would add at a proportionate length of time.

The running of any court system inevitably costs the taxpayers a lot of money and judges must be spared for the very complex cases, that need a more traditional type of hearing to be resolved.

To be able to perform their role properly, the Courts will have to invest more on infrastructure, introduce modern IT systems, constantly fight to keep buracracy to the minimum in order to improve the efficiency of the Courts.

If we remain receptive to change, our judicial system will flourish, and the rule of law strengthened. This will no doubt benefit our society and our citizens, who will be able to assert their rights freely in the courts, without the delays that we have been accustomed to during the last few years.

George Erotocritou