

FUNCTIONAL REVIEW OF THE COURTS SYSTEM OF CYPRUS

**Technical Assistance Project 2017/2018
IPA, Ireland**

**Supported by the Structural Reform Support Service
(SRSS) of the European Commission**

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Executive Summary

Introduction

Serious deficiencies with the operation of the judicial system in Cyprus have been highlighted in a number of European Union (EU) and other reports over the past number of years. The EU Justice Scoreboard 2017¹ shows that while judicial independence in Cyprus is perceived to be relatively high, achieving greater efficiency in the judicial system remains a serious challenge. The length of court proceedings is among the longest in the EU, and the level of backlogs in litigious civil and commercial cases is among the highest. As regards the quality of the Cypriot justice system, the EU Justice Scoreboard also shows that there are serious deficiencies regarding the availability and use of information communication technologies, that Alternative Dispute Resolution methods are under-utilised, and that standards on timing for case management or other performance measures are lacking.

The problems in the judicial system have also been the subject of a number of internal reports, most recently a report by a committee appointed by the Supreme Court which was asked to highlight gaps and problems in the administration of justice, to identify the needs of the courts, and to make recommendations. This report was delivered in June 2016.² The report outlined the constitutional requirements and framework for the independence of the judiciary and rule of law in Cyprus, identified the major problems (including that of delay), and recommended a more in-depth review of the Cypriot courts system.

The overall aim of the current project was to carry out an in-depth functional review of the courts system in Cyprus, focused specifically on improving the operations, processes, and management of the courts. Such improvements would provide a more efficient delivery of justice for the benefit of citizens and better support economic and social development. The overall output was to be a set of recommendations, supported by implementation actions, to address existing inefficiencies and delays in the system.

The project was contracted by the Structural Reform and Support Service of the European Commission (SRSS/EC), which also provided the technical assistance to fund the project, with the recipient of the

¹ The EU Justice Scoreboard is an information tool which published annually by the European Commission, which provides objective, reliable and comparable data on the quality, independence and efficiency of national justice systems.

² Report of the Supreme Court on the operational needs of the Courts and other related issues, 2016- hereafter in this report referred to as the Erotocritou Report of 2016.

technical assistance being the Supreme Court of Cyprus. This project was conducted by a Review Team from the Institute of Public Administration, Ireland, which included experts in public administration, management, and courts reform. Local support to the project team was provided by the Director of Reform and Training, former Supreme Court Judge Mr George Erotocritou. The project was undertaken between May 2017 and March 2018. Three formal missions were undertaken by the Review Team to Cyprus during that period.

This report sets out the background to the project and then goes on to provide an in-depth analysis of the issues and challenges identified by the Review Team relating to the three main components of the terms of reference, namely: the operations and efficiency of the Supreme Court; the operations and efficiency of the District Courts and other courts of first instance; and the management of the courts system. In order to put the analysis in an international context, this is followed by a brief review of the courts system in Cyprus in comparison to other, mainly EU, countries, including a more detailed comparative analysis of aspects of courts management and administration in selected other EU countries. This analysis leads to consideration of options for addressing the identified challenges and a set of recommendations. Finally, there is a discussion of implementation, including consideration of the costs and benefits, and a detailed action plan for implementation is set out.

Analysis of Current Situation in the Supreme Court and Courts of First Instance

Overview

A scoping mission in Cyprus was undertaken by the EC SRSS and IPA during early 2017. This mission identified the critical areas to be encompassed by the functional review. On its completion, terms of reference for the project were agreed. In line with the terms of reference, the functional review comprised four main phases:

- Phase 1: An in-depth functional review of the operations and efficiency of the Supreme Court.
- Phase 2: An in-depth functional review of the operations and efficiency of the District Courts and other first instance courts.
- Phase 3: An in-depth functional review of the management of the courts system.
- Phase 4: A final report, including a proposed reform plan with set of implementation actions.

Certain other issues identified to the team during the scoping mission, such as an in-depth review of the Rules of Civil Procedure, were agreed to be the subject of a separate EC SRSS-funded technical assistance project.

In the context of initiating the project, it was noted that the Cypriot authorities have in recent times implemented a number of measures aimed at improving the efficiency of the courts system. These include:

1. The establishment of an Administrative Court.³
2. Amendment of Order (O) 25 and Order (O) 30 of the Rules of Civil Procedure to give the judge a more active role in the conduct of the action, and introducing a simplified and more expeditious procedure for claims under €3,000. This procedure also eliminated the need for oral testimony in such cases, which are now decided on the basis of written addresses.
3. Legislation limiting the right to appeal against interlocutory orders.⁴
4. An increase in the level of court fees.

Further measures planned, or already in progress, that did not directly form part of this functional review included:

- The establishment of a Commercial Court, which is currently expected to commence operations in 2018/2019.
- The introduction of the E-Justice system, which is the subject of a stand-alone project.
- The establishment of an Administrative Court of International Protection.
- Other reform measures, including the recently initiated Review of the Rules of Civil Procedure and the development of a Judicial Training School.

While this functional review of the courts system involved a detailed analysis of the Supreme Court and courts of first instance under the four phases described above, the Review Team also wished to keep the major thematic challenges clearly in focus. This was to ensure that the problems in the Cypriot court system are addressed in an integrated, rather than a fragmented or piecemeal, way. With this in mind, the Review Team maintain that three critical aspects of the overall functioning of the courts system in Cyprus must be considered together. These are:

³ Establishment and Operation of the Administrative Court Law 2015 (Law 131(I)/2015)

⁴ Courts Law 14/60 on 21st July 2017, (amendment 109(I)/2017)

1. Management and leadership of the courts system.
2. Institutional structures to support effective and efficient management and administration.
3. Procedures, processes, and infrastructure to support the smooth and efficient operation of the courts.

Based on the analysis undertaken for this functional review, there are currently major deficiencies in all of these areas. The weaknesses in the management and leadership of the courts system are reflected in such areas as a lack of forward planning, inefficient management of resources, inadequate staff management, and weak internal management processes. However, these problems are inextricably linked with the current dependence on inadequate and outmoded structures, whereby the Supreme Court, in addition to its critical legal roles and responsibilities as the highest court in the land, also has overall responsibility for the effective and efficient management and operations of the courts. The current system fails to provide an adequate infrastructure for the efficient and effective administration of justice. The system is also characterised by inefficient procedures and processes, e.g. the lack of active management of cases through the courts system, and by an almost complete lack of supporting ICT systems. The lack of procedural innovation to address these inefficiencies can in turn be explained by the absence of structured professional leadership and management and the absence of the formalised structures and processes required to support ongoing change and reform.

The problem of backlogs, and the consequent serious delays in cases coming to court, is getting worse. Some civil cases can potentially take as long as 9.5 years from initiation at a court of first instance to conclusion of appeal in the Supreme Court. Actions of judiciary and staff are currently conditioned by the need to just keep the system running. The demands on all staff and on the judiciary are excessive, and without any prospect of early resolution. In such a scenario, the challenge of maintaining orderly management and procedure is overwhelming, the possibilities for ongoing reform or innovation are extremely limited, and there is little or no opportunity for long-term planning.

It must also be acknowledged that both the judiciary and the staff of the courts are operating under very significant pressure. Further, not all cases are subject to excessive delay.

Major Challenges in the Supreme Court

The major problem identified in the current operations of the Supreme Court is delay in the hearing of appeals. The recent establishment of the Administrative Court has helped to alleviate the situation by freeing up judicial time to focus on appeals. However, the problem of delay remains chronic. Data

presented in this report shows that the problem has been getting worse year by year; whereas the average waiting time for the trial of an appeal was 5.8 years at the start of 2016, by the end of that year it was 6.3 years. The worsening of the situation has undoubtedly been due, at least in part, to more cases, and more complex cases, arising from the financial crisis.

The Supreme Court is primarily focused on executing the judicial responsibilities of the court. This is understandable given the scale of the backlog and the extent of the workload, but it comes at the expense of the development of a professional management ethos in the courts system. In practical terms there are limited or no structured management processes in place for, inter alia, business planning, production and analysis of management information, development of training or staffing plans, and opportunities for structured engagement with ICT development or building plans. The fact that there is such a limited formal management process in place was no doubt a contributory factor in allowing the current critical problem of delays to develop. The current system allows no systematic analysis of trends, has few opportunities to identify problems before they become critical, and lacks the capacity to generate and implement solutions when problems are identified.

As with the courts system in general, the operations of the Supreme Court are almost entirely based on manual and paper-based systems, with only rudimentary ICT facilities in place. The implementation of the proposed E- Justice system will lead to a major transition from the current paper-based systems to technology-based systems. In the meantime, however, paper-based systems are particularly vulnerable to disaster such as flood or fire as, by their very nature, they do not easily lend themselves to back-up.

Given the current wide range of functions of the Supreme Court, there is also a need to consider how judicial time can be used most effectively and efficiently in order for judges to be able to address the high priority issues. Meanwhile, registry accommodation and storage space at the Supreme Court need improvement, and the current problems relating to the delays in the timely receipt of transcripts of court proceedings also need to be addressed.

Major Challenges in the Courts of First Instance

The District Court and other courts of specialised jurisdiction in Cyprus operate under the control and supervision of the Supreme Court. The District Courts have jurisdiction to hear at first instance civil cases where the cause of action has arisen wholly or in part within the limits of the District where the Court is established, or where the defendant resides or carries on business within that District. The

District Court judges have also jurisdiction to try at first instance, summarily, all offences punishable with imprisonment for a term not exceeding five years or with a fine not exceeding €85,000, or both. The Assize Courts have unlimited jurisdiction to try, at first instance, all criminal offences punishable by the Criminal Code or any other law, and they have power to impose the maximum sentence provided by the relevant law.

In addition to the District Courts there are a number of specialised first instance courts and tribunals. These include the Administrative Court, the Rent Control Tribunals, the Industrial Disputes Tribunal, the Military Tribunal, and the Family Courts.

The major issue identified with performance in the District Courts is the delay in the hearing of cases that proceed to trial. Criminal cases are generally given priority. As a consequence, the problem of delay is not as significant in criminal cases as with civil cases. This problem of delay in civil cases is more acute. The length of delay varies between districts, with delays ranging from 1 to 7 years. The increase in the backlog of civil cases from the start of 2010 to the end of 2016 was 83%. Since the economic crisis in 2010 there has been a sharp increase in the number of civil cases filed. These cases are complex, involve significant levels of discovery, and do not lend themselves to speedy disposition.

With the exception of the Industrial Disputes Court, where there is also a large backlog of cases, the problem of delay is not as critical in the other specialised courts. Inefficient case management, and the requirement to revise the Civil Procedure Rules, were highlighted as factors impacting on the effective operation of these courts.

Case management in a courts system is the proactive process of using rules, procedures and practice to move a case from initiation to disposition within an acceptable timescale. Case management is typically divided into administrative case management and judicial case management, each of which form an integral part of an effective case management process. From an administrative perspective it is important to assume control of the progress of a case from its initiation.

Throughout the courts system in Cyprus administrative case management is rudimentary, not least in the absence of ICT support, and there is a lack of standardised criteria for judicial case management. As is the case in the Supreme Court, a notable feature of the administration in the District Court and other courts of first instance is that it is an almost completely manual and paper-based system. The absence of IT-based case filing and tracking systems leads to cumbersome procedures, including

difficulties with file retrieval, an inability to provide timely information to parties to cases, and a lack of up-to-date management information. The absence of an electronic register means that in the courts of first instance, case management is unwieldy and difficult. Up-to-date statistical and management information on the progress of cases is not readily available. Monitoring of compliance with directions and timescales is not feasible.

The shortage of appropriately skilled staff, e.g. in the area of stenography, is negatively impacting on the efficient use of judicial and court time. It is also leading to serious delays in the production of official court records.

In the District Courts, an individualised approach to the management of court diaries leads to inconsistencies in practice. Because of the backlogs in the system, the dates set for trials are often not considered to be credible; parties do not expect the case to proceed on the fixed date. This has created a situation where, on a regular basis, either lawyers are not fully prepared to proceed or witnesses are not available. The result is that the case is adjourned.

There is also a lack of flexibility in the management of court time in the districts, and where cases do not proceed there is no facility to transfer cases from another court. Due to lack of ICT, legal, and stenography supports, judges can spend valuable time taking notes in longhand during hearings, conducting their own legal research, and preparing written judgments for even the most minor cases.

The Certain Aspects of Mediation in Civil Matters Law of 2012 (Law 159(I) of 2012) provides the framework for the use of Alternative Dispute Resolution in civil cases. However, the decision to use mediation is completely voluntary for both parties. As a result, it is little used, either pre-action or during the course of proceedings. Legal practitioners, and litigants, seem generally reluctant to try for an amicable settlement. They prefer to fully try each matter, thus giving rise to the associated costs of legal proceedings and use of court time. There are no pre-trial protocols to allow the judge to identify non-contentious evidence or to isolate the net issues of the case.

In terms of security, entry to the courts is by a common access point for all customers. There are no metal detectors or security checks carried out on access. There are no separate circulation spaces for the staff and judiciary, and few facilities for legal practitioners.

There is no regular structured forum for court users to raise concerns, to provide feedback on the service provided to court users, or to suggest initiatives.

Registry space and storage is inadequate. This is particularly so in the Nicosia courthouse, where working conditions are unacceptable. Insufficient and inadequate space impedes efficient administration and management, while increasing the risk of loss of court documents. There is currently a serious problem of risk in, for example, the lack of back-up for paper-based files housed in old buildings. But there is no formal risk management process, and no disaster recovery planning.

Basic information on the role and functions of the courts, or on the daily court lists, is not available to the public either electronically or in hard copy. The use of ICT between courts and lawyers is also among the lowest in the EU.⁵

Management of the Courts

The Supreme Court has overall responsibility for the administration of the courts system and is accountable for the use of public funds assigned to the courts. Each District Court is presided over by the Administrative President, who is the most senior judge in the District. The Chief Registrar of the Supreme Court is the head of the judicial and administrative staff and is responsible for the day-to-day management of the administration of the courts. The Chief Registrar has a wide-ranging and onerous dual role, one that encompasses both statutory and administrative functions.

Given the heavy workload of the courts, and the lack of a professional management structure within the courts system, management processes are currently weak and are further contributing to the problems being experienced. There is no integrated professional management structure covering all aspects of operations and support, something that is essential in a modern courts system.

There is an absence of formal processes for strategic and business planning and for managing ongoing communication and engagement, both with staff of the courts and with court users. The development of a capacity for strategic planning and budgeting will become even more critical in the context of the recently implemented Fiscal Responsibility and Budget System Law 2014 (Law 20(I)/2014), to which the courts will be subject from 2018. Similarly, with regard to assessing staffing needs, requests for additional resources are currently made in an ad-hoc manner; they do not arise from systematic forward planning or periodic review.

⁵ The 2017 EU Justice Scoreboard European Commission, P20 Fig.23

While there appears to be good working relationships between the courts system and the various ministries and agencies, engagement tends to be reactive rather than proactive. The general working relationship between the courts and the relevant government ministries is generally of an ad hoc nature. There is need for more structured engagement, including that related to key projects that will impact the courts, such as E Justice and capital building works.

The lack of a dedicated estate management function within the courts raises concerns regarding fire safety, risk management and business continuity planning. It also means that problems with accommodation and storage, which in some cases are long-standing, are not being resolved in a sufficiently timely manner.

There is also a lack of planned development and training for staff, who in many cases are working under difficult circumstances with limited supports. Similarly, there has been a lack of a continuing professional development plan for the judiciary, although it is proposed that this be addressed through the establishment of the new Judicial School.

As noted earlier, while the review of the Rules of Civil Procedure (RCP) is currently the subject of a separate technical assistance project, this report draws attention to some of the issues that arose during this functional review relating to how the current rules are negatively impacting on the efficiency and effectiveness of the courts system. The report draws attention to some specific changes that might be considered in the context of the Review of Rules of Civil Procedure.

Comparative Review of Judicial Systems

Increasingly, comparative country perspectives are being used to monitor the performance of judicial systems and to design and plan future reforms. In this report we review the performance of the judicial system in Cyprus in comparison with other (mainly EU) countries, based on EU and other comparative studies. This comparative analysis confirms the chronic problem of delays in the judicial system in Cyprus. The EU Justice Scoreboard for 2017 shows that the time needed to resolve cases in Cyprus is amongst the highest in the EU, and that Cyprus ranks among the EU countries with the highest number of civil and commercial cases pending hearing per 100 inhabitants.

Efficiency in processing cases through the courts is not the only measure of performance of the courts. While Cyprus scores well on judicial independence, it scores poorly on a number of other measures. The 2017 Justice Scoreboard indicates that Cyprus is 4th from the bottom of the table in the provision

of training to the judiciary. It also shows that serious deficiencies remain regarding availability of information and communication technologies in courts, both for case management and communication, and that a low proportion of judgments are accessible online to the public. It also shows that general government expenditure on the courts system is the lowest in the EU.

This report also includes a review of courts systems in a number of other countries, specifically with regard to their models of court management and administration; their administrative processes, including case management; supports to the judiciary; ICT and the use of courtroom technology; pre-action protocols, alternative dispute resolution and mediation; structures for appeals; and level of court fees. The selection of countries for comparison was made on the basis that they have legal systems broadly aligned with that of Cyprus and, in certain cases, where there has been relatively recent experience of general reform of the courts system. However, there are also many examples of best practice in other EU member states that can be found in such reports as the EU Justice Scoreboard.

By comparison with international practice in many developed countries, the appeals process in Cyprus is anomalous in that there is an unrestricted right of appeal to the Supreme Court and no second tier court of appeal. The review of the organisational and institutional arrangements in other countries shows that while there are a variety of institutional arrangements in place for the management and administration of the courts, many are operated through an independent agency specifically purposed to provide management and administration for the courts.

Many countries have formalised processes for case management to progress cases efficiently through the system. A dedicated legal or semi-legal resource is frequently assigned to ensure that cases progress against set timelines and that delays, where they arise, are addressed in a timely way. Alternative dispute resolution, both pre-action and pre-trial, is becoming an increasingly prominent feature of modern judicial systems. It helps to reduce the burden of work on the courts and reduce the costs of legal action.

Other areas reviewed include the use of ICT and courtroom technology. The use of video and digital audio recording in courtrooms is now common in a number of countries. An analysis of court fees in comparable jurisdictions shows that court fees in Cyprus are broadly in line with those in comparable jurisdictions.

Options and Recommendations

Drawing on this analysis, and taking account of the comparison with other jurisdictions, options to address the problems of the courts system in Cyprus are outlined, leading to a number of recommendations. Recommendations are both short-term, to be implemented immediately, and medium-term, to be implemented in a progressive and phased way over the next two years. The main recommendations address the fundamental and critical problem areas identified during this functional review.

It is no exaggeration to say that the Cypriot court system is currently in crisis and beset by inordinate delays. This is not a situation that has arisen just recently; it has developed, and worsened, over some considerable time. The problem of chronic delays in the courts is a symptom that does not have a single cause, but rather is due to a combination of fundamental and underlying weaknesses in the system. Allowing the system to continue without major reform is simply not an option. To do so would result in the situation worsening further, with delays becoming so chronic that any remaining trust in the ability of the courts to provide timely justice for litigants will disappear. This would have unacceptable results for the rule of law, the conduct of commerce, and the country's reputation.

Both the Supreme Court and District Courts are currently labouring under the weight of a massive backlog of cases. In order to address the fundamental weaknesses in the current system a range of changes must be implemented. For these to have any chance of success, however, the weight of the backlog of cases must first be lifted. Therefore, the first recommendation addresses how the problem of the backlogs should be tackled. It is recommended that a **Taskforce** should now be established to oversee and direct a specific project **to address the backlogs**. The project will be led by a dedicated Project Team Leader. One of the first tasks will be to quantify and categorise the backlog of cases. Once analysed, the approaches to clearing the backlog of appeals in the Supreme Court, and the backlog of cases at District Court level (and including the backlog at the Industrial Disputes Court), will necessarily differ. In relation to the backlog at District Court level, a temporary panel of qualified judges should be established to hear these cases, and a number of options for establishing this panel are set out. In the case of the Supreme Court it is not possible, for constitutional reasons, to temporarily increase the number of judges.

It is recommended that a **review to consider all aspects of the appeal process**, including the possible establishment of a second-tier Court of Appeal, be established as a matter of urgency. The objective of this review should be to establish an effective appeal process, one that would protect the

appellant's right to challenge the judgements of lower courts, increase efficiency in the system, and provide assurances regarding the prompt hearing of appeals.

The implementation of recommendations from this review of the appeals process should result in a much more limited flow of appeals to the Supreme Court, thus allowing it to focus on its role as the highest constitutional court in the land. The current backlog of appeals in the Supreme Court, having been defined and analysed by the Taskforce, can then be addressed by the existing complement of Supreme Court judges. The backlog of appeals can be eliminated within a specific timeframe, and according to a process and targets established by the Taskforce.

To address current weaknesses in management and administration and to create the future capacity for strategic planning and leadership of the courts system, it is recommended that an independent statutory body, the **Courts Service of Cyprus**, be established to manage and support the operations of the courts. This will represent a first, but very important, step in the modernisation of the Cypriot courts system. The Courts Service of Cyprus will have a **Chief Executive and management team**, and a **new streamlined structure** to focus on operational and support functions. A number of options are set out for the oversight and governance model of the new agency. The appropriate arrangements will need to be agreed by the relevant parties. As the judicial system represents the third arm of government in Cyprus, it is important that any **new governance model** for the management and administration of the courts ensures the continued independence of the judiciary in the exercise of their judicial function.

It is recommended that the newly appointed CEO and management team will take responsibility for all aspects of operations and supports to the courts and the judiciary and **develop strategies and plans for the courts service** to address accommodation and security; risk management, including the establishment of a risk register; staffing numbers; staff training and development; ICT; financial and budgetary strategy; and supports to the judiciary, the public and all court users.

It is clear that the lack of an effective case management system in the courts of first instance is a key contributory factor to the current difficulties, particularly the problem of delay, and to the inefficient use of judicial and court time. It is recommended that a dedicated **case management judge** be assigned in each district to manage cases to trial, to allocate cases to hearing, and to ensure consistency in the application of rules, procedures and practice directions. Active case management will assist in achieving the optimal use of both judicial and court time, not to mention maximising the

effective use of courtrooms. Case management judges will work closely with the Administrative Registrars, Administrative Presidents and the judiciary in fulfilling their role. The new case management procedures should be made available to all users of the courts and published on the courts website. This will provide clarity to applicants and a framework for practitioners and should detail the requirements of the new case management procedure. The implementation of the E-Justice system will be a further significant support to the introduction of improved case management processes in courts of first instance.

As noted in the report, it is not the norm in Cyprus to have continuous hearings. Rather the system is characterised by multiple adjournments with resulting discontinuity, delay, and wasted time for all those involved. It is therefore recommended that Cyprus should introduce a system of **continuous hearings**, which will contribute to overall efficiency.

The most important resources available to a courts system to ensure that cases are heard in a fair and equitable manner, and within acceptable timeframes, are judicial time and a consistent approach to case management. In the case of the Supreme Court, while the processes and procedures are in many respects inefficient and lack supporting technology, the reason why the backlog of appeals cannot be reduced is the lack of court time. A number of **measures are proposed to free up judicial and courtroom time**. These include reducing the composition of the appeals bench to three judges for all administrative appeals; reviewing the composition of interview boards for judicial appointments; making better use of non-judicial legal expertise currently available; and improving ICT, research, and other supports to the judiciary.

Compared to the schemes of Alternative Dispute Resolution (ADR) available in a number of other countries, ADR is not well developed in Cyprus. Recourse to the courts is often regarded as the primary mechanism for settling legal disputes. Despite this, relatively few civil applications proceed to full trial, leading to the conclusion that many civil disputes could be settled outside the courts system. This fact, and the success of the ADR mechanisms in other countries referred to, makes a compelling case for the introduction and promotion of ADR mechanisms in Cyprus, particularly in areas such as personal injuries and consumer disputes. It is recommended therefore to **introduce ADR mechanisms in consumer disputes and injuries assessment cases as an alternative to issuing court proceedings**.

Even in cases where court proceedings are initiated, the evidence suggests that litigants are still far more likely to settle their disputes rather than proceed to full trial. Given that speedy resolution of

disputes is in the best interests of all parties, including the courts, the use of mediation should be promoted by the courts in applications where settlement is a likely outcome. Therefore, it is recommended that **courts should actively encourage mediation in cases where settlement is considered to be a likely outcome**. The Rules of Court should be amended to make provision for the court to refer cases to mediation. In implementing these recommendations, the correct balance must be maintained between providing access to ADR mechanisms and preserving right of access to the courts.

With regard to the assignment of judges, currently District Judges are assigned on a two-year basis to a specific court and business. Although the ability to assign judges to different courts and business is important for maintaining flexibility in a small system, and this flexibility should be preserved, the current method of rotation of judges creates certain inefficiencies in the system. The application of a less formulaic or rigid approach to the current two-year rota of assignments at district court level would overcome some of the practical problems now being experienced. Similarly, the implementation of continuous hearings should alleviate some of the difficulties that can be currently experienced at the time of transfer of judges. It is recommended that **the current two-year rota system be modified to ensure that judges rotate at different times in the cycle**, thus ensuring that there is continuity of expertise and input to trials. In order to help ensure that the rotation of judges does not militate against the development of specialist expertise, the development of judicial expertise in specific areas should become part of a continuing professional development programme for judges. With the welcome development of the new Judicial School, **training should be provided to judges in the correct and uniform application of the Rules of Civil Procedure, and a mentoring programme for newly appointed judges should be introduced**.

Regular engagement with stakeholders, particularly court users, through surveys or forums or other means, is important in helping to ensure that the courts continuously adapt to changing needs and priorities. It is recommended that following the establishment of the Courts Service of Cyprus, **user groups should be established** by the Service in each district to provide a forum for the discussion and resolution of matters of mutual concern.

A **range of other recommendations** are made, including those relating to the introduction of Digital Audio Recording in courtrooms and the introduction of more efficient methods for the payment and collection of court fees. A range of short-term measures related to such areas as ICT, accommodation and storage are also recommended. These will provide some immediate benefits.

Attention is also drawn to aspects of the Rules of Civil Procedure that are contributing to inefficiency and delay, and to aspects of the Rules that may need to change as a result of the recommendations in this report. These will help inform the recently initiated review of the Rules of Civil Procedure.

Conclusions

The implementation of the recommendations in this report will represent a comprehensive approach to addressing many of the fundamental deficiencies identified in the current management, administration and procedures of the courts system in Cyprus. The new management systems and structures proposed will also help to ensure that similar problems to those now being experienced do not arise in the future.

However, as is noted in this report, a number of previous reviews and studies have identified critical problems in the management and operations of the courts system in Cyprus. Despite this, progress in implementing change and reform has been exceedingly slow, with the result that the problems, and the delays in the courts, have simply become more pronounced. Therefore, serious and detailed attention must now be given to implementing the recommendations from this report; the effective management of change will be critical. This report provides detailed recommendations on the **management of change** and the resources required for implementation. It is recommended that a dedicated **Reform Team** be now put in place to refine and progress the detailed Action Plan provided.

Many of the costs arising from the recommendations in this report will be incurred during the transition and implementation phase. The costs will be necessary in order to return the courts to normal working and to implement the structures required to modernise the courts system. However, the potential benefits of implementing the recommendations in this report are very significant. Cyprus can look forward to improving the performance of the courts to at least the level of the EU average, as measured by the EU Justice Scoreboard. Cyprus will improve its profile as a place to do business, and the benefits to all stakeholders—including the judiciary, lawyers and courts users—will be both visible and real.

The critical issue now is whether there is a willingness to embrace the significant change and challenges of implementation that will inevitably arise from these recommendations. Failure to do so will represent a missed opportunity and only defer the actions that are inevitably required to successfully adapt the courts system in Cyprus to meet the needs of today and tomorrow.

Chapter 1

Introduction and Background

1.1 Introduction

This project, conducted by a Review Team from the Institute of Public Administration, Ireland, had as an overall objective an in-depth review of the operations, processes, and management of the courts system in Cyprus, leading to a set of implementation actions that will address existing inefficiencies and delays in the system. The project was contracted by the Structural Reform and Support Service of the European Commission (EC SRSS), with the recipient of the technical assistance being the Supreme Court of Cyprus. It was undertaken between May 2017 and March 2018, and three formal missions were undertaken to Cyprus during that period.

This report sets out the background to the project and then goes on to provide an in-depth analysis of the issues and challenges identified by the Review Team relating to the three main components of the terms of reference: operations and efficiency of the Supreme Court, operations and efficiency of the District Courts and other courts of first instance, and management of the courts system (Chapter 2). In order to put the foregoing analysis in an international context, this is followed by a brief review of the courts system in Cyprus in comparison to other, mainly EU, countries, and a more detailed comparative analysis of aspects of courts management and administration in selected other EU countries (Chapter 3). This analysis leads to consideration of options for addressing the identified challenges, and a set of recommendations. (Chapter 4). Finally, there is a discussion of implementation, including consideration of the costs and benefits, and a detailed action plan for implementation.

At the outset, we would like to express our gratitude for the time and support given to the Review Team throughout the project. We would like to thank the Ministers of Finance and of Justice and Public Order, the President and members of the Supreme Court, the Courts Reform Steering Committee, the Chief Registrar, the Cyprus Bar Association, staff of the registries and members of the judiciary, representatives from the ministries, academics and legal practitioners, all of whom gave generously of their time. We would also like to thank the EC Structural Reform and Support Service for its support throughout the process. Most particularly, we would like to acknowledge and thank Mr George Erotocritou, Former Judge of the Supreme Court and Director of Reform and Training, for his invaluable input, organisation of the missions, and advice during the Functional Review.

To begin, the background to the project and the challenges facing the Cypriot court system are summarised below.

1.2 Background

Serious deficiencies with the operation of the judicial system in Cyprus have been highlighted in a number of EU, and other, reports over the past few years. The European Council Recommendation of 11 July 2017⁶ noted that:

Cyprus has been taking measures to reinforce its judicial system but continues to face serious challenges as regards the efficiency thereof. Inefficient court procedures and limited capacity lead to significant delays in processing court cases.

The EU Justice Scoreboard 2017⁷ shows that while perceived judicial independence is relatively high in Cyprus, achieving greater efficiency in the system remains a serious challenge. The length of court proceedings and the level of backlogs in litigious civil and commercial cases are among the highest in the EU. As regards the quality of the Cypriot justice system, the EU Justice Scoreboard also shows that there are serious deficiencies regarding the availability and use of information and communication technologies, that a low proportion of judgments are accessible online, that Alternative Dispute Resolution methods are rarely utilised, and that standards on timing for case management or other performance measures are lacking.

Significant delays of up to 4 years in Courts of First instance, and a further delay of up to 5 years on appeals, led to a situation where the State was required by the European Court of Human Rights to pay damages to citizens impacted by those delays⁸. The inefficiency of the judicial system can also result in a negative perception of Cyprus as a place to do business, as noted in the Council Recommendation on the 2017 national reform programme of Cyprus. It must also be acknowledged, however, that both the judiciary and the staff of the courts are operating under very significant pressure. Further, not all cases are subject to excessive delay.

⁶ COUNCIL RECOMMENDATION of 11 July 2017 on the 2017 National Reform Programme of Cyprus and delivering a Council opinion on the 2017 Stability Programme of Cyprus (2017/C 261/12) page 5

⁷ The EU Justice Scoreboard is an information tool which published annually by the European Commission, which provides objective, reliable and comparable data on the quality, independence and efficiency of national justice systems.

⁸ Case "Mavronichis v. Cyprus, 47/1997.

The problems in the judicial system have also been the subject of a number of internal reports, including the Pikis Report (1989) and the Kramvis Report (2012). More recently, the Supreme Court appointed a committee, chaired by Judge George Erotocritou, to prepare a report to highlight gaps and problems in the administration of justice, to identify the needs of the courts, and to make recommendations. This report was delivered in June 2016.⁹ It outlined the constitutional requirements and framework for the independence of the judiciary and rule of law in Cyprus, identified the major problems—including that of delay—and recommended a more in-depth review of the Cypriot courts system.

With the adoption of the amended Financing Decision of the work programme for operational technical assistance to implement the activities of the Structural Reform Support Service in Cyprus¹⁰ in December 2016, the European Commission agreed with the Cypriot authorities to equip the Supreme Court with:

... a plan to carry out a comprehensive reform of its judicial and administrative structures, operational process and procedures to provide a more efficient delivery of justice to the benefit of citizens and to better support broad economic and social development.

The Cypriot authorities formally requested the Structural Reform Support Service of the European Commission (EC SRSS) to provide expert technical support to undertake an in-depth review of the courts operations, which led to the current project.

The Institute of Public Administration in Ireland (IPA) was selected as the service provider to support the Supreme Court of Cyprus in undertaking this review process. The IPA has recognised and relevant experience and expertise in the provision of advice in the area of governance and public administration reform and development. The IPA has already successfully completed a number of reviews of Cypriot Ministries and Independent Government Organisations and has gained an in-depth knowledge of the Cypriot administrative system.

⁹ Report of the Supreme Court on the operational needs of the Courts and other related issues, 2016- hereafter in this report referred to as the Erotocritou Report of 2016

¹⁰ Amending Decision C (2016) 3746 on the adoption of the 2016 work programme for operational technical assistance to implement the activities of the Structural Reform Support Service in Cyprus at the initiative of the Commission in the framework of the European Regional Development Fund, the European Social Fund and the Cohesion Fund (Operational technical assistance), serving as a financing decision

1.3 Scoping Mission

A scoping mission in Cyprus was undertaken by the EC SRSS and IPA, accompanied by representatives of DG JUST, from 5-8 February 2017. It sought to identify the main issues relevant to the project and to propose terms of reference for a functional review of the courts. The main issues identified to the scoping study team were as follows:

- Delay and the impact of this delay on stakeholders, the reputation of the judicial system, and that of Cyprus as a place to conduct business.
- The need to examine the organisation of the work of the Supreme Court and the supports provided to the Supreme Court judiciary.
- The need to examine the organisation of work of the District Courts and the supports provided to the District Court judiciary.
- The need to review the administration and management of the courts and support offices.
- Need for reform of the Rules of Civil Procedure. The Rules of Civil Procedure are based on the procedures and practice inherited from the British system. The rules date from 1954 and, with a few exceptions, have not been revised since.
- Need for Judicial Training: there is no mandatory requirement for judicial training in Cyprus. The EU Justice Scoreboard indicated that Cyprus is 4th from the bottom of the table in the provision of training to the judiciary. In 2012, Judge G. Erotocritou presented a report¹¹ for the establishment of a Judicial School to the Supreme Court, the Attorney General, the Ministry of Justice and the Bar Council. The recommendations of the Report were accepted by the Supreme Court. In 2017, Professor Jeremy Cooper was appointed to produce, in collaboration with Judge George Erotocritou, a more detailed study and action plan. This is currently being implemented.

It was agreed that the aim of the current Technical Assistance (TA) was to carry out an in-depth functional review of the courts system focused on improving the operations, processes, and management of the courts. Such improvement would provide a more efficient delivery of justice for the benefit of citizens and would better support broad economic and social development. Other issues identified to the team during the scoping mission, such as an in-depth review of the Rules of Civil Procedure, were agreed to be the subject of a separate TA project. To support the overall reform

¹¹ Judge George Erotocritou, Judicial Training – The Need to Create a National Strategic Plan for 2014-2020 Nicosia 2012

effort, a former Judge of the Supreme Court, Mr George Erotocritou, was appointed as the Director of Reform and Training. A small team was to be appointed in Cyprus to support his work.

1.4 Terms of Reference

The following were identified to be the key areas to be reported upon on completion of the full functional review:

1. An in-depth functional review of the operations and efficiency of the Supreme Court (component 1).
2. An in-depth functional review of the operations and efficiency of the District Courts and other first instance Courts (component 2).
3. An in-depth functional review of the management of the courts system (component 3)
4. A proposed reform plan with set of implementation actions (component 4).

A final report covering the above-named areas, and including a set of proposed implementation actions, was to be prepared. The key elements of the Terms of Reference are at Appendix A.

1.5 Methodology

The functional review was conducted by the IPA team comprising Dr Brian Cawley, Project Leader and Manager; James Connington, IPA Project Co-ordinator; Olive Caulfield, IPA Associate Consultant and Court Service Expert; and Michael O'Beirne, IPA Associate Consultant and Court Service Expert. The methodology for this functional review incorporated desk research, including a review of available statistics and the identification of the main issues for further analysis; interviews with key groups and stakeholders during each of the three missions to Cyprus (a full list of those consulted during each mission is at Appendix B); selected site visits; workshops; a review of the identified issues and the development of a short interim paper after each mission; and comparative research into practice in relevant other jurisdictions.

In line with the Terms of Reference, the functional review comprised four main phases:

- **Phase 1:** An in-depth functional review of the operations and efficiency of the Supreme Court.
- **Phase 2:** An in-depth functional review of the operations and efficiency of the District Courts and other first instance courts.
- **Phase 3:** An in-depth functional review of the management of the courts system.

- **Phase 4:** A final report, including a proposed reform plan with set of implementation actions.

Phase 1 Review Mission was conducted in Nicosia from 12th – 16th June 2017. This included meetings with key stakeholders and visits to the Supreme Court registry, including attendance at a sitting of the Supreme Court. Following the mission, a short interim paper was provided to relevant parties. The paper outlined the key challenges and issues identified during the June mission.

Phase 2 Review Mission was conducted from 18th – 22nd September 2017. This included meetings with key stakeholders in Nicosia and Larnaca, attendance at a sitting of the Larnaca District Court, and visits to the registries in Nicosia and Larnaca. As per the terms of reference, a workshop was also conducted with registrars to provide an overview of the reform of the Irish courts system and to identify challenges in the Cypriot court system. Following the mission, a short interim paper summarising the key issues and challenges identified during the mission was provided to relevant parties.

Phase 3 Review Mission was conducted in Nicosia from 27th to 30th November 2017. Meetings were held with relevant parties and, in addition to identifying key challenges and issues relating to the management and governance of the courts, some preliminary options for addressing the overall challenges in the system were explored. A short interim paper describing the key findings from the mission was forwarded to relevant parties.

During each of the missions in Cyprus, the Review Team met with the Courts Reform Steering Committee. It did so both to outline its proposed approach and to seek the input of the Committee on the substantive issues under review. It is important to state that while each of the missions focused, as per the terms of reference, on specific aspects of the courts system, there was inevitably a degree of overlap, most particularly as issues relating to the management and governance of the courts (Component 3) also arose also during the first two missions.

As mentioned, after each mission an interim paper setting out the areas analysed and the issues identified was sent to all of the key stakeholders. Where comments were received, they were considered by the Review Team and incorporated as appropriate in the preparation of the final report. In general, the comments received or absence of corrections, apart from relatively minor issues raised, served to confirm the analysis of the Review Team at each of these stages.

Phase 4 involved consolidating the analysis from all three missions, refining a comparative analysis with other countries, developing options and recommendations, and drafting the final report. This phase was completed between December 2017 and March 2018. It concluded with a formal presentation of the final report in Nicosia on 27th March 2018.

1.6 Interim Actions

During the course of the review, the Review Team identified a number of interim actions that could be implemented pending the completion of the full review and contribute to efficiency, relieve pressure in the support offices, and improve the service to court users. These actions were highlighted in each of the interim papers. A list of the Interim Actions is at Appendix C. As these are still relevant, they have also been re-presented as short term recommendations in Chapter 4.

1.7 Methodological Challenges

Some challenges were encountered in seeking to conduct a comprehensive analysis during this review. While data was diligently provided to the Review Team when requested—including the available statistics on filing, backlog and disposition of cases, and staffing numbers—the absence of comprehensive statistical and management information, due predominantly to the lack of computerised management reporting systems, often meant that the information was incomplete, fragmented, and not easily amenable to manipulation for the purposes of more detailed analysis. Quite apart from the time and effort required to compile such information from a manual system, the lack of comprehensive computerised information impeded analysis. It should also be noted that in most cases statistics of activities in Cypriot courts used in this report are up to the end 2016.

While a separate TA project has been established, with the support of EC SRSS, to undertake a comprehensive review and reform of the Rules of Civil Procedure, it was agreed that targeted issues relating to the Rules and relevant to the public administration of the courts would be identified by the current project. However, while the Rules of Civil Procedure were originally written in 1954 in English, many subsequent amendments have been made in Greek and no translation was available. This fact inevitably hampered analysis of the rules with a view to identifying their current potential for creating inefficiencies in the system. A number of other reports related to reform, such as the Stavrinakis Report (relating to the Rules of Procedure), were also not available in English. Notwithstanding these challenges, the Review Team identified a number of aspects of the Rules of Civil Procedure that require attention in order to improve the efficiency of the courts, and these are referred to in more detail in

Chapter 4. The Review Team on this project also met formally with members of the team working on the Rules of Court project, to brief them on our findings.

It was recommended on a number of occasions, both before and during the project, that appropriate support needed to be provided to the Director of Reform and Training to ensure the timely provision of information to the Review Team, to deal with ongoing queries, and to maintain communication with stakeholders for the duration of the project. No additional resources had been allocated by the time of the completion of the final mission in late November 2017. We understand that additional resources are due to be allocated during 2018. While this is both necessary and welcome, the absence of adequate resourcing during the course of the project presented challenges.

1.8 Reports and Publications Consulted

The Review Team reviewed a wide range of documents and reports, including those specifically relating to the Cypriot judicial system and those on international comparators. These are referenced in detail in the bibliography at the end of the report. However, we draw particular attention to the following key documents:

Erotocritou Report 2016

This significant report, prepared by the Supreme Court, outlines in some detail the historic and current context for the problems facing the judicial system in Cyprus. The main issues of delay, outdated court procedures, lack of an administrative structure, and lack of a judicial training programme are clearly enunciated, and recommendations are made.

European Commission EU Justice Scoreboard (2016 and 2017)

The EU Justice Scoreboard is an information tool aimed at assisting the EU and member states to achieve more effective justice by providing objective, reliable and comparable data on the quality, independence and efficiency of justice systems in all member states.

European Commission Country Report Cyprus (2016 and 2017)

These reports assess developments in the Cyprus economy, as well as highlighting inefficiencies in the public administration and judicial systems.

Council of the European Union Recommendation of 11 July 2017 on the 2017 National Reform Programme of Cyprus

This country-specific recommendation on Cyprus refers, inter alia, to the critical challenges relating to the functioning of the judicial system.

***The Administration of Justice in Cyprus* - Speech by The Honorable Mr. Justice Myron M. Nicolatos, President of the Supreme Court of Cyprus – 20th January 2017**

The Constitution of the Republic of Cyprus (1960)

The Constitution establishes the Supreme Court and courts of first instance, and provides for the unified hierarchical structure of the judiciary

The Rules of Civil Procedure 1954, as amended

The Rules of Civil Procedure, which have not been reviewed with any rigour since their enactment, have been identified as a significant barrier to efficiency. The need to revise the Rules as a matter of urgency was stressed by all participants during the missions.

The Cyprus Fiscal Responsibility and Fiscal Framework Law 2014

The legislation provides a framework for the introduction of modern financial best practice in the area of public sector budgeting and planning. Based on this framework, Ministries are required to develop a three-year strategic plan with a number of strategic goals, key performance indicators to allow monitoring of the plan, and a corresponding budget. This requirement extends to the judicial system.

The E-Justice Tender under preparation by the Department of Information Technology Services of the Ministry of Finance in collaboration with the Supreme Court

Documentation was provided to the Review Team on the current status of a project to provide an electronic E- Justice system for Cyprus, to include, inter alia, case initiation and management, listing, production of court orders, accounting, and statistical data functions. More detail on this project, and its implications for the courts, are referred to at 1.2.11 below and in later chapters.

1.9 Recent Developments

The Cypriot authorities have more recently implemented a number of measures aimed at improving the efficiency of the courts system. These include:

- The establishment of an Administrative Court.¹² The Administrative Court was established in 2015 and commenced its work in January 2016. The Administrative Court now has exclusive first instance jurisdiction to rule on any recourse regarding a decision act or omission of an executive or administrative authority. The Supreme Court transferred all pending first instance administrative cases to the Administrative Court in 2016. Initially, one President and four judges were assigned to the Court.
- Amendment of O. 25 and O. 30 of the Rules of Civil Procedure to give the judge a more active role in the conduct of the action, and introducing a simplified and more expeditious procedure for claims under €3,000. This procedure also eliminated the need for oral testimony in such cases, which are now decided on the basis of written addresses.
- Legislation limiting the right to appeal against interlocutory orders.¹³
- An increase in the level of court fees.
- Further measures in progress, or planned, include:
 - A Commercial Court is expected to commence operation in 2018/2019. In addition to high value commercial cases, the court will also assume the admiralty jurisdiction of the District Courts.
 - The introduction of the E-Justice system.
 - The establishment of an Administrative Court of International Protection.
 - Other reform projects, including the current functional review; a Review of the Rules of Civil Procedure; the development of a Judicial Training School; the introduction of objective criteria for the recruitment, assessment and promotion of judges; and the training of trainers.

1.10 E-Justice Project

The proposed E-Justice system envisages a comprehensive networked computerisation of all major aspects of court administration and hearings which will be implemented in all courts and court offices. A budget of €9 million has been allocated to the project. The system will provide, inter alia, for the electronic lodgement of documents and prosecutions that will necessitate direct interfaces with the legal profession, the police, the prosecution service and the public. This will lead to cases being recorded on an electronic register. This register may be used for data and statistical collation, as well as for statistical analysis and the production of management information and reports. In court, the system will be used for the collation and presentation of pleadings, with lawyers and judges referring

¹² Establishment and Operation of the Administrative Court Law 2015 (Law 131(I)/2015)

¹³ Courts Law 14/60 on 21st July 2017, (amendment 109(I)/2017)

to electronic files rather than the voluminous paper files currently presented to the court. Help desk support and training will be provided by the service provider.

As a result of the procurement process, proposals have now been received from potential providers and are being evaluated. The contract is scheduled to be awarded in mid-2018, with development complete by 2019, and user acceptance testing completed by 2020.

When implemented, this E-Justice project will involve wide-ranging change to the administration of the courts. It will require comprehensive training for all stakeholders. Experience in Ireland has shown that such change requires detailed management, adequate project resources and active sponsorship at the highest level within the organisation. The President of the Supreme Court, and his colleagues on the Courts Reform Steering Committee, are supporters of the project and wish to see it implemented without delay. In this context, the support and management role of the Steering Committee will be vital. At meetings with the Review Team, both the Minister for Justice and Public Order and the Minister for Finance also expressed support for the project, and indeed for the reform of the courts more generally.

Finally, it is extremely important that the E-Justice project is not implemented in isolation. It must be integrated and coordinated with other initiatives, such as with the recommendations emanating from this functional review and from the forthcoming review of the Rules of Court.

Chapter 2

Analysis of the Current Situation in Supreme Court and Courts of First Instance

2. Introduction

We will begin by providing a general description of the courts system in Cyprus. We will then provide a description and analysis of the current situation under the heading of the three main components, relating to:

- the operations and efficiency of the Supreme Court
- the operations and efficiency of the District Courts and other first instance courts
- the management and governance of the courts system

In order to understand the challenges facing the courts system, it is first important to describe, in general terms, how the system works.

2.1 Judicial System of the Republic of Cyprus

Until it became an independent republic in 1960, Cyprus was a British colony, and the country still retains many principles of the British legal system. The legal system in Cyprus is often described as a mixed system¹⁴ combining elements of both common law (mainly in the domain of private law) and civil law (mainly in the domain of public law).

The judicial system of Cyprus is founded on the following:

- The Constitution of Cyprus.
- The Laws which have been retained by virtue of the Constitution.
- The principles of Common Law and Equity.
- The Laws enacted by Parliament, after 1960.
- Rules of procedure and evidence.

¹⁴ See Hatzimihail, N in Journal of Civil Law Studies Volume 6 Number 1 Summer 2013 Article 3 8-15-2013

Under the articles of the 1960 Constitution, two Superior Courts were established: the Supreme Constitutional Court¹⁵ and the High Court of Justice.¹⁶ In 1964 the two Courts were merged into the present Supreme Court of Cyprus, which has all the powers and jurisdiction of the previous Courts.¹⁷ Following the accession of the Republic of Cyprus to the European Union in 2004, the Constitution was amended so that European law has supremacy over the Constitution and national legislation. The current judicial system has two jurisdictions - the Supreme Court and the courts of first instance. An organisational chart of the judicial system is at Appendix D.

2.1.1 The Supreme Court

The Supreme Court of Cyprus is the highest court in the Republic and consists of a President and 12 judges. It has jurisdiction as an appellate court in prerogative writs, admiralty cases, election petitions and constitutional matters. Jurisdiction in administrative cases was passed to the newly created Administrative Court in January 2016. The Court also acts as the Supreme Council of the Judicature, dealing with judicial appointments, promotions, transfers and disciplinary matters.

2.1.2 District Courts and Other First Instance Courts

The **District Courts** have jurisdiction to hear at first instance civil cases where the cause of action has arisen wholly or in part within the limits of the District where the Court is established, or where the defendant resides or carries on business within that District.

The **Assize Courts**, composed of three Judges, have unlimited jurisdiction to try, at first instance, all criminal offences punishable by the Criminal Code or any other law. They have power to impose the maximum sentence provided by the relevant law.

The other specialised courts are:

1. The **Rent Control Tribunals**, which have jurisdiction to try all disputes arising from the application of the Rent Control Laws
2. The **Industrial Disputes Tribunal**, which hears cases by employees regarding unjustified dismissals and redundancies.

¹⁵ The Constitution of the Republic of Cyprus articles 133-151

¹⁶ Ibid 152-164

¹⁷ Administration of Justice (Miscellaneous Provisions) Law no. 33/64

3. The **Family Courts** have first instance jurisdiction to hear matrimonial petitions for the dissolution of marriage as well as all relevant property disputes between the spouses. They also have exclusive first instance jurisdiction to hear cases of custody, maintenance, access and adoption of children.
4. **The Administrative Court** adjudicates upon administrative recourses, under Article 146 of the Constitution. Such recourses are filed by persons having a legitimate interest in the annulment of administrative acts or decisions.
5. The **Military Tribunal** has jurisdiction to try offences committed by the members of the Armed Forces under the Criminal Code and the Military Criminal Code.

The Family Court has a registry in each District. The judges of the Industrial Dispute Tribunal, who hear cases in all districts, are supported by the registry of that court, which is based in Nicosia. The Rent Control Tribunal sits in each District and is supported by the staff of the local registry. The Administrative Court and registry are located in the Supreme Court building in Nicosia. The Military Tribunal is also based in Nicosia.

2.1.3 Staffing of the Courts System

At end 2017 there were a total of **556** staff employed in the courts system, comprised of judges, judicial staff, and general administrative staff.

Judiciary

At end 2017 there were **120** approved judicial positions in the courts system, of which 119 positions were filled. The President and the Justices of the Supreme Court are appointed by the President of the Republic, usually from within the ranks of the serving judiciary, and on the recommendation of the Supreme Court. Judges of the District and other courts are appointed by the Supreme Court.

Administrative Structure

There are five administrative offices (Registries) managing the courts and supporting the Judiciary. The Supreme Court and Administrative Court offices are located in Nicosia, and District Court Offices are located in Nicosia, Limassol, Larnaca, and Paphos. The total staffing complement is **437**.

Administrative staff are divided into two streams:

Judicial support posts (174)

- Chief Registrar
- Assistant Chief Registrar
- Legal Officers
- Registrars
- Stenographers
- Bailiffs

General Support Staff (263)

- Clerical staff (interchangeable staff)
- Messengers, cleaners (hourly paid staff)
- Security staff: police or private sector
- Other staff: Interpreters, Librarians, Technical Assistants

The Supreme Court has overall responsibility for the management and administration of the courts. The Chief Registrar of the Supreme Court is the head of all personnel, except judges and has responsibility for the management and allocation of staff as well as shared responsibility for the budget.

2.2 Analysis of the Current Situation

2.2.1 Overview

As noted at 1.2.5 above, the project was structured so as to undertake the review of the operations, processes, and management of the courts system in Cyprus through four separate strands of work.

These were:

- A review of the operations and efficiency of the Supreme Court.
- A review of the operation and efficiency of the District Courts and other courts of first instance.
- A review of the management and governance of the courts system.
- the above leading to the final phase of drafting of report, including an action plan.

While the rest of this chapter is structured consistent with the terms of reference to describe the current situation, and the key issues and challenges identified under the first three strands, it is very important to emphasise the importance of a holistic perspective in obtaining a comprehensive understanding of the current problems in the Cypriot courts system and of how to address them. In seeking to ensure that the problems in the Cypriot court system are addressed in an *integrated* way, three aspects of the overall functioning of the courts system in Cyprus must be considered together. These are:

- Management and leadership of the courts system.
- Institutional structures to support effective and efficient management and administration.
- Procedures, processes, and infrastructure to support the smooth and efficient operation of the courts.

Based on our analysis, there are currently major deficiencies in all of these areas. The weaknesses in the management and leadership of the courts system are reflected in such areas as a lack of forward planning, inefficient management of resources, inadequate staff management, and weak internal management processes. However, these problems are inextricably linked with the current dependence on inadequate and outmoded structures, whereby the Supreme Court, in addition to its critical legal roles and responsibilities as the highest court in the land, also has overall responsibility for the effective and efficient management and operations of the courts. The current system fails to provide an adequate infrastructure for the efficient and effective administration of justice. The system is characterised by inefficient procedures and processes, e.g. the lack of active management of cases through the system, and by an almost complete lack of supporting ICT systems. The lack of procedural innovation to address these inefficiencies can in turn be explained by the absence of sufficiently strong leadership and management, and the absence of the structures and processes required to support ongoing change and reform.

The Cypriot courts system is also characterised, as borne out by the data presented later in this report, by a state of permanent and ongoing crisis. The problem of backlogs, and the consequent serious delays in cases coming to court, is getting worse. Actions in the system are conditioned by the need to maintain a crisis footing. The demands on all staff and on the judiciary are excessive, and are without any prospect of early resolution. In such a scenario, the challenges of maintaining orderly management and procedure are overwhelming, the possibility for reform or innovation are extremely limited, and there is little or no opportunity for long-term planning.

So, in advance of the more detailed description and analysis of current issues and challenges that follows, it is important to point out that our analysis suggests that these major issues of leadership and management, structure and process are inextricably linked together. In order to address the deeply-rooted problems in the system and to break the current cycle of dysfunction, these issues simply must be addressed in an integrated way.

The courts system in Cyprus has developed over time by a process of accretion, and in response to historical, political and economic developments, but without any comprehensive overall reform of the system. Customs and practices have developed over time that in a number of respects inhibit the efficient and effective operation of the courts. It is our view that it is only through reform, and implementing new structures, processes, and rules, that custom and practice will change to support the more efficient operation of the courts.

Finally, it is also worth noting that many of the problems and challenges identified in this report have already been identified in a variety of other EU and national studies. However, to date there has been limited follow-up action. To effectively resolve these challenges, the connectedness of the various issues must be recognised, as must the need for properly planned and resourced implementation plans.

2.2.2 Review of the Operations and Efficiency of the Supreme Court

In this section we set our description and analyses of issues relating to the operations and efficiency of the Supreme Court. The Terms of Reference required that a functional review of the operation and efficiency of the Supreme Court be conducted, to include:

- A review of the administrative processes and procedures of the Supreme Court.
- A review of the organisation and allocation of work within the support office.
- A review of current case management processes and linkage with courts of first instance.
- A review of the supports provided to the Supreme Court Judiciary.
- A review of facilities and information provided to court users and the public.
- A consideration of options to improve efficiency and service delivery.

In the course of the review, the IPA team of experts specifically examined:

- Overall performance of the Supreme Court.
- The day-to-day operation of the Supreme Court Registry, including the business processes that underpin the operations of the Supreme Court.
- Management structures and systems.
- Case management in the Supreme Court and linkage with courts of first instance.
- Supports provided to the Judiciary.
- Administrative, technical, professional and other supports provided to the judiciary.
- Facilities and information provided to Court users and the public.

These are now described in more detail.

2.2.2.1 Role, Function and Performance of the Supreme Court

The **Supreme Court of Cyprus** has the following powers and jurisdiction:

- It is the Supreme Constitutional Court of Cyprus. It considers the constitutionality of existing laws and of proposed legislation, when such legislation is referred by the President of the Republic.
- It is the Highest Administrative Court with exclusive Appellate Revisional Jurisdiction. It adjudicates upon Appeals from recourses made on complaints by anyone having a legitimate interest as to whether a decision, act or omission of any organ, authority or person, exercising executive or administrative authority, is contrary to any of the provisions of the Constitution or of any law, or is made in excess or in abuse of the powers vested in such organ, authority or person. As Appellate Administrative Court, the Supreme Court consisting of panels of up to 5 judges, has appellate and final jurisdiction.
- It acts as the Electoral Court, hearing election petitions.
- The Supreme Court, consisting of one President and twelve Justices, is also the Supreme Council of Judicature, with powers to appoint, promote and transfer all Judicial Officers. It also exercises disciplinary jurisdiction over them.
- The Supreme Court also acts as “Council” in accordance with the Constitution, having jurisdiction to “impeach” the Highest Officials of the Republic.
- The Supreme Court has also exclusive jurisdiction to issue the Prerogative Orders – Habeas Corpus, Certiorari, Mandamus, Prohibition and Quo Warranto.
- It is the Civil and Criminal Appeals Court. A bench of three Judges sits to hear appeals.
- It has jurisdiction to hear and determine Admiralty cases both at first and final instance.

- It is the Second Instance Family Court, hearing Appeals from the first instance Family Court.
- Under Article 135 of the Constitution it has the power to make rules regulating the practice and procedure in the courts, and for prescribing the fees in respect of court proceedings.

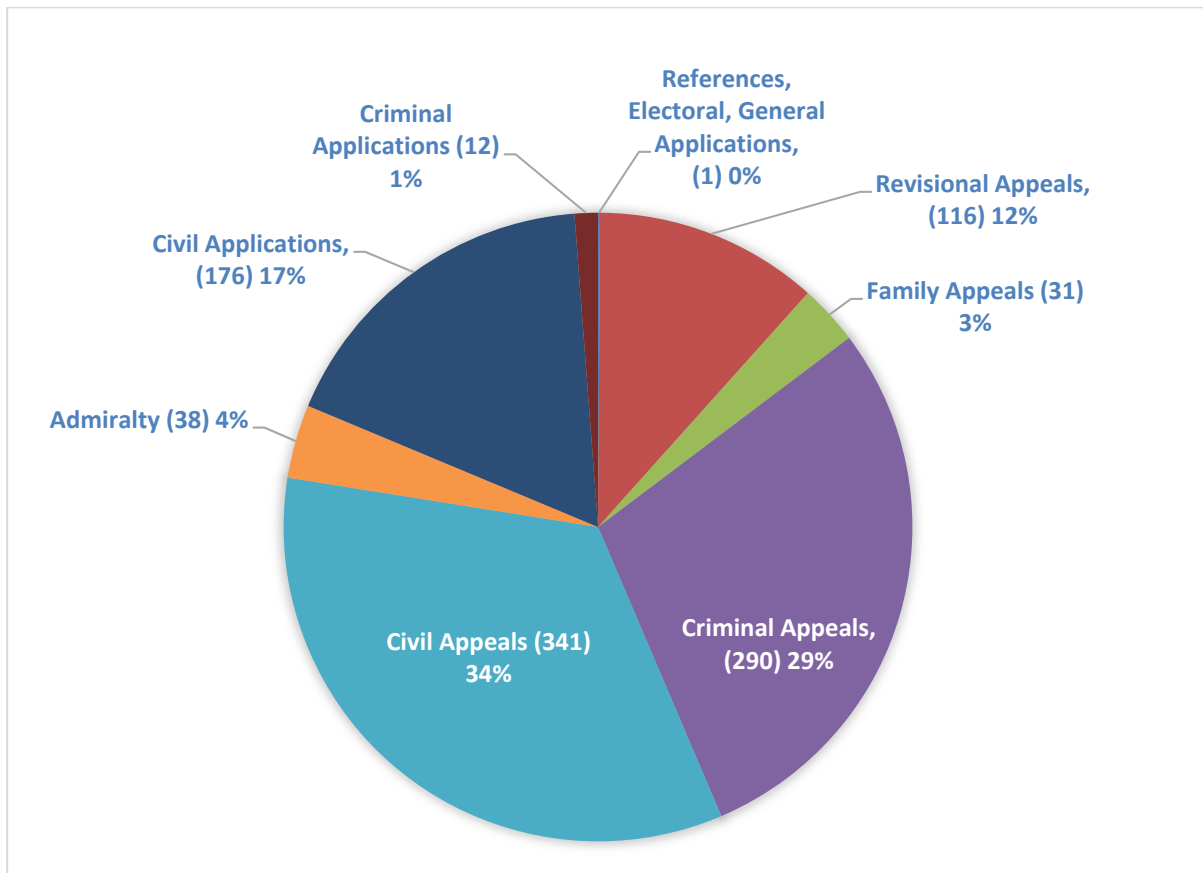
In addition to his judicial role and duties, the President of the Supreme Court also has overall responsibility for the management and administration of the courts system in Cyprus. To a large extent this responsibility is delegated to the Chief Registrar. Supervision of the courts of first instance is exercised through the Administrative Presidents, although the Supreme Court also meets weekly to specifically discuss matters of administration.

With the exception of relatively minor changes, the Supreme Court today functions in the same manner as it did at the time of the merger of the Supreme Constitutional Court and the High Court in 1964. This is notwithstanding the recommendations from a number of reviews undertaken to address inefficiencies in the administration of justice and the operation of the Supreme Court, including the Erotocritou Report (2016), the Pikis Report (1989), and the Kramvis Report (2012).

In the meantime, both the workload of the Supreme Court and the complexity of that work have increased significantly. For example, the Supreme Court hears and determines any recourse by the President of the Republic regarding the compatibility with the Constitution of any law enacted by the House of Representatives. A recent development has been an increase in the number of such references to the Court, rising to 16 in the past year from an average of 3-4 in each of the preceding 6 years. These constitutional references are heard by the full 13 judge court and are necessarily given priority over other court business.

While the Court is fully occupied in the exercise of its overall jurisdiction, the main volume of business of the Supreme Court arises from its role as an appellate Court, as illustrated in Figure 1.

Figure 1: Business of the Supreme Court (2016) by Category, Number and Percentage



Performance and the Problem of Delay

The major performance challenge identified in the current operations of the Supreme Court is delay in the hearing of appeals. References, electoral petitions and prerogative orders are, by their nature, more urgent and are generally disposed of in a reasonable time.

As noted above, since 1964 only limited reforms have been implemented in the operation of the Supreme Court, including an increase in the number of judges of the Supreme Court and the establishment of a new appeal hearing process. The latter allowed for the exchange of skeleton arguments between the parties within a set time frame and a time-limited oral address. For several years, these reforms were sufficient to stem any increase in the backlog of cases. But with the recent rapid increase in the number of appeals, and the increasing complexity of cases, these limited reforms have proved insufficient to prevent an increase in the time required to dispose of an appeal, which currently on average stands at over five years for civil appeals and one to two years for criminal appeals. For example, and in order to illustrate the magnitude of the problem, in the past ten years

the number of civil and criminal appeals filed increased by over 90 per cent (see Table 1 below), while the number of Supreme Court judges has remained the same.

A recent initiative of the Supreme Court to address the issue of efficiency was also noted. The Court now divides its appeals work into divisions dealing with specific areas of law, such as criminal and civil. The Court considers that this change from a system where essentially each division had a varied list should improve efficiency. The Supreme Court will formally review the change in 2018 to assess the impact of this initiative.

Despite the changes, the statistics in Table 1 clearly illustrate that the problem of delays in hearing appeals is getting much worse. While the number of appeals completed (average 687 per year) is reasonably consistent over the seven-year period, the number of new appeals filed year on year has increased from 851 in 2010 to 1,213 in 2016. By the end of 2016, 435 more appeals were pending compared to the start of that year. In other words, whereas the average waiting time for the trial of an appeal was 5.8 years at the start of 2016, by the end of the year it was 6.3 years. Thus, the waiting time for the trial of appeals is increasing steadily. The problem can only be described as chronic.

The recent establishment of the Administrative Court has helped to alleviate the situation in that it has freed up judicial time to focus on appeals. However, it should be noted that on the establishment of this court, over 7,000 cases were transferred from the Supreme Court. The recent legislation limiting the right to appeal interlocutory orders will also help the Court to focus on appeals of the final orders of the courts of first instance.

Table 1: Aggregate Chart of Annual Statistics (Civil Appeals, Criminal Appeals, Family Court Appeals, Administrative Appeals, Cases Stated 2010-2016)

| Year | Pending at the end of the previous year | Filed | Determined | Pending at the end of current year |
|-------------|--|--------------|-------------------|---|
| 2010 | 1673 | 851 | 655 | 1869 |
| 2011 | 1869 | 917 | 662 | 2124 |
| 2012 | 2124 | 1093 | 737 | 2480 |
| 2013 | 2480 | 1023 | 676 | 2821 |
| 2014 | 2821 | 1186 | 639 | 3368 |
| 2015 | 3368 | 1179 | 664 | 3883 |
| 2016 | 3883 | 1213 | 778 | 4318 |

A number of reasons have been put forward as to why the problem of increasing delays on hearing appeals has become so critical. These include:

- More cases, and more complex cases, arising from the financial crisis.
- The unrestricted right of appeal in Cyprus. The right of appeal is a constitutionally protected right, and if a party to a case is dissatisfied with the decision of a District Judge, he/she has, in the current Cypriot system, the unrestricted right to appeal (within a specified time) to the Supreme Court.
- The level of fees required to lodge an appeal is perceived to be low.
- A perception that appeal can be used as a delaying tactic, particularly as the current delay in hearings are lengthy.
- Increase in the number of interlocutory appeals.

With the establishment of the new Administrative Court there is also a concern that the number of appeals from that court may further add to the backlog at the Supreme Court over the coming years. However, there is not yet sufficient evidence to indicate if this will in fact be the case.

The Erotocritou Report of 2016 made the following suggestions to eliminate the problem of delay and increase efficiency:

- Creation of a Second-tier Court of Appeal.
- Establishing Court Divisions for the trial of criminal appeals, civil appeals, and administrative law appeals and, with legislative change, family appeals.
- Seek to reduce the number of appeals. The process is already under way for limiting the right of appeal from interlocutory judgments, not definitively affecting the interests of the parties
- Establishment of a fast track appeals process.
- Increase the number of judges in courts of first instance.

Given its broad range of responsibilities, both statutory and constitutional, the Cypriot Supreme Court has a significant number of matters requiring its attention such as its functions as the Supreme Council of the Judicature and its role in the management of the courts. These roles occupy a considerable portion of the time of the Court. By comparison, these roles are performed by separate agencies in comparable jurisdictions such as Ireland (Judicial Appointments Advisory Board and Courts Service respectively) and Malta (Commission for the Administration of Justice).

It was also indicated to the Review Team that judicial time, in common with many jurisdictions, is divided between court sittings and consideration of judgements, with approximately 40% of that time allocated to judgements. Based on the experience in some other jurisdictions, including in Ireland, the expanded use of legal officers in the research and drafting of judgements can lead to an increase in judges' availability for court, while not adversely impacting on the timely issue of judgements.

A number of the above suggestions and proposals are aimed at either stemming the flow of appeals to the Supreme Court or increasing the amount of court time available to hear appeals. They will be considered in more detail at in Chapter 4. However, it is also essential to consider the efficiency and effectiveness of the ongoing management and administration of the Supreme Court. It is to these issues we now turn our attention.

2.2.2.2 Management and Administration of the Supreme Court

The total staffing complement (excluding the judiciary) of the Supreme Court section of the courts is 72. This figure includes registrars, legal officers, clerical officers, stenographers, bailiffs, librarians and other support staff. This cadre of staff constitutes the overall support to ensure the smooth and efficient running of the Supreme Court.

The Supreme Court registry is located in the Supreme Court building in Nicosia. The registry is responsible for providing the day-to-day support to the Court. It ensures that all relevant cases and files are prepared correctly in advance of Court, that complete sets of all necessary documentation are distributed to the Judges of the Court in advance of proceedings, that all parties are informed of proceedings, and that suitably trained stenographers and support staff are in place for hearings.

A Supreme Court administration organisation chart is at Appendix E.

Management

The management of the support function, including the registry and registry of revisional appeals, is the responsibility of the Chief Registrar, who is assisted by an Assistant Chief Registrar, with day-to-day operational responsibility delegated to a Senior Registrar. The Assistant Chief Registrar is in turn supported by three registrars and a number of clerical and administrative staff. It should be noted that the Chief Registrar has a number of statutory legal functions as well as management functions. It was noted that, in practical terms, there were limited or no structured management processes in place, such as for business planning, production and analysis of management information, development of training or staffing plans, or opportunities for structured engagement with ICT or building plans. The fact that there is such a limited formal management process in place is undoubtedly a contributory factor to the current critical problem of delays. The current system allows no systematic analysis of trends and few or no opportunities to identify problems before they become critical. Nor does it allow solutions to be generated and implemented when problems are identified.

2.2.2.3 The administrative processes and procedures of the Supreme Court

As is common in all jurisdictions, the administrative practices and procedures in the Supreme Court registry are heavily influenced by legislative requirements and by the relevant rules of court. This is a fact of life for court administration, which must necessarily operate in a highly regulated environment compliant with the law of the land, and within the structures decided by the courts.

The most notable feature of the administration of the Supreme Court registry in Cyprus is that it is an almost completely manual system. In accordance with the rules, all cases to the court must be entered in the office register, with all cases entered by hand in a printed ledger. As the case progresses through the court, the registrar notes the decision of the court in the register up until the conclusion of the proceedings. A spreadsheet, which mirrors this manual process, is also maintained, though this record is regarded as unofficial, and its full potential remains unrealised. By contrast, in Ireland for example, virtually all aspects of office administration have been computerised for almost two decades. The benefits to the Irish Courts Service in terms of data retrieval, list production, preparation of statistics and management information, to mention but a few, have been immense. Indeed, the use of ICT in virtually all areas of operation is now considered as a *sine qua non* for the effective management and administration of the courts.

In the course of the review, the Review Team met with the registrars and registry staff. All of the staff were prudent in seeking to ensure that the registry met all of its obligations to the Court. However, ensuring that this happens is rendered much more difficult due to the shortcomings and constraints of an entirely manual system. While staff considered that the rules of court were in need of update, they did not identify any specific instances where the rules currently contribute to delay, aside from the current requirement to maintain a manual register.

It is important to note that despite the fact that they are based on completely outmoded paper-based records and systems, and staff have little or no access to modern ICT systems, the procedures within the registry are not currently contributing further to the delay in dealing with cases in the Supreme Court. In fact, a considerable number of cases, particularly appeals, remain ready for hearing by the Court but remain unscheduled due to a lack of available court time.

While staff in the registry appear knowledgeable of their responsibilities and the requirements of the rules of court, the training process appears to be one of “look and learn,” with few, if any, opportunities for formal training. Written procedures to complement the rules of court are absent, which increases the risk of procedures and rules being applied inconsistently. There is also a considerable risk where institutional knowledge resides with the individual rather than the organisation.

2.2.2.4 The organisation and allocation of work within the support office

At present the registry operates within a standard hierarchical organisational structure (see chart at Appendix E). The streams of work within the support office reflect the legal divisions of the Court (civil, criminal, admiralty, etc). As indicated previously, the registry has at any given time a number of cases in each category ready for scheduling and, consequently, is able to keep pace with the work of the court.

A number of the issues discussed above, such as the continuing use of a manual register, also impinge on the organisation and allocation of work within the support office, since the work has to be organised and allocated within an almost exclusively manual system. Reliance on a manual system, without ready access to statistical data, imposes constraints on the management and allocation of work within the office and limits the optimal use of resources. While in our discussions it was indicated that staff were fully occupied, and indeed the evidence of our observation supported this assertion, the lack of management information on the outputs from each section make it difficult to assess how evenly work is distributed, or when or how work could be re-allocated in line with revised priorities or demands. As noted earlier, regular management meetings to discuss the operation of the office and any challenges arising are not currently a feature of the system, and resource allocation is not subject to periodic review. In certain cases, it seems that job descriptions (Schemes of Service) are also restrictive, and thus can further inhibit the allocation of work within the office.

2.2.2.5 Current case management and linkage with the courts of first instance

Case management can essentially be sub-divided into two categories, administrative and judicial, which, in order to be effective, must work together seamlessly.

Administrative case management

It is clear that a well-defined sequence is followed by the registry in the administrative preparation of a case for trial. Essentially, the registry follows the standard procedure of ensuring that all relevant documentation is received within the specified timeframes and in accordance with the rules of court. Once these have been received, the case is put before the President of the Court of Appeal, who will consider the basis of any appeal and then advise the parties of the court's requirements regarding pleadings and the timelines for receipt of documentation. Once pleadings have been received, the case is brought to the President for scheduling, in consultation with the registrar, and a date for hearing is set.

On the administrative side, the basic case management tools are legislation and the rules of court, which together provide the framework and timelines within which cases must be processed. Ensuring strict compliance with those rules should mean that all parties to an action are treated equally in accordance with publicly available, predetermined criteria. However, seeking to ensure that this happens within a purely manual system, such as currently operates in the Supreme Court registries, is necessarily labour intensive, time consuming, and inefficient. Even rudimentary ICT tools with diary facilities would enable reports to be compiled, indicating which cases have submissions or pleadings that are overdue, and would enable timely reminders to issue to the relevant parties.

Judicial case management

Rules and legislation also form the backbone of judicial case management and, in order to work effectively, should be applied similarly to those in the administrative case management. Currently, when scheduling cases, the President of each division consults with the registrar, though it does not appear that there is a formal process by which the registrar can bring cases which are languishing in the system to the attention of the court.

Each President uses his or her own criteria for scheduling of cases. This is, in many respects, understandable given the control a President needs to have over the court list. However, the lack of agreed, publicly available criteria can lead to inconsistencies in prioritising cases for hearing. In the current system parties to a case have no guarantee, or estimate, of when their case will be heard. It also appears that, due to the very significant delay in getting court time, the court does not actively pursue those who have not complied with the timeframes set for the submission of pleadings. The logic of this approach is also understandable given that the court is not in a position to give an early hearing date should all the pleadings be received, and therefore it does not consider it useful or practical to pursue dilatory applicants or respondents. Unfortunately, this can also lead to a situation where deadlines are regularly and routinely ignored, and respect for the court is diminished.

Apart from priority being given to criminal matters, there do not appear to be any other guidelines or directions on judicial case management.

In the Irish courts system, the use of ‘callovers’ is a commonly used case management tool. Under this initiative, the registry identifies cases which, for various reasons, have been failing to progress at the expected rate and brings them to the attention of the court. A date is fixed upon which the parties are summoned to attend and explain the reason for the delay. Should a satisfactory reason fail to be

provided the cases may be struck out by the court, meaning that the applicant must commence proceedings again.

Linkage to courts of first instance

In examining the problem of delays, the Review Team noted that a serious problem can arise relating to the length of time it takes for a transcript to become available from the District Court. The delay in producing the transcript, which can be up to 2 years, relates to the constraints of the stenography system. While the level of delay is lessening as the number of stenotypists increases and replace stenographers, it remains a significant problem. Despite this inefficiency, it does not currently impact on the actual delay in the hearing of the appeal, as, due to lack of court time, the appeal is unlikely to receive an earlier date even if the transcript was immediately available.

2.2.2.6 The supports provided to the Supreme Court judiciary

As is the case in all developed jurisdictions, the Supreme Court judiciary in Cyprus has a range of supports, the main purpose of which is to enable the court to fulfil its central role of finalising the cases which come before it.

Operational

The primary support to the Supreme Court is the registry, which provides the day-to-day operational support to the Court. It ensures cases are appropriately prepared, relevant rules are complied with, parties are kept informed, court lists are published, and that suitably trained stenographers and support staff are in place for hearings. Sections 2.2.2.3 and 2.2.2.4 above contain the Review Team's main observations on the registry.

Secretarial

Each judge has a secretary who also acts as a stenographer (shorthand typist) in court. The shortcomings of shorthand typing for the production of transcripts was noted above and are acknowledged by both the judiciary and the secretarial staff. The limitations of stenography are exacerbated by the lack of microphones in the courtrooms, making it difficult for the stenographers to hear what is being said. The use of audio recorders as an aid to typing transcripts is currently not permitted.

In other jurisdictions the recording of proceedings is commonplace. For example, in Ireland digital audio recording (DAR) systems have been installed in each courtroom. These systems record

everything that is said throughout court proceedings and can be replayed should the need arise. DAR can also be used to prepare transcripts of all, or part of, proceedings as appropriate. While transcripts are normally available within a matter of weeks, urgent records can be produced overnight if required. In the USA, the video recording of proceedings is normal practice.¹⁸

The current proposal is to gradually replace stenography with stenotyping. While stenotypists are currently contracted from the private sector, the plan is to retrain the stenographers currently employed by the courts. This is a time-consuming and expensive process. In the light of what has become standard practice in other jurisdictions as referred to above, it raises the question of whether a more advanced DAR system should also be considered as part of the plan.

While the secretaries appear to make use of the normal suite of office software, no formal training is provided and most appear to develop their ICT skills by trial and error. While noting and admiring the initiative shown by staff in learning their office skills, it is nonetheless preferable to have adequately resourced training programmes and refresher courses to ensure maximum benefit from the use of technology-based office tools. In the context of the proposed implementation of the E-Justice system, the limited ICT skills currently available within the courts system as a whole must be factored into the implementation of that project.

Legal and Research Support

Each judge of the Supreme Court has a legally qualified legal officer who may assist the Court in the preparation of judgements, legal research and other matters as deemed appropriate by the individual judge. The role of each legal officer varies depending on the requirements of the judge to whom he/she is assigned. Prior to the establishment of the Administrative Court, the legal officers were assigned for a significant part of their time to duties related to administrative cases heard in the Supreme Court. This work no longer forms part of their role and there should be spare capacity arising from this change. As noted earlier, legal officers could play a valuable role in assisting with the drafting of judgements, and thus helping to free up court time.

This type of legal support is commonly provided to members of Superior Courts in comparable jurisdictions, both for support with drafting of court judgements and conducting research on behalf of the judiciary. While in Cyprus the legal officer is assigned to each judge, in other countries legal officers may also be part of a team of legally qualified officials who provide support to the judges/court

¹⁸ Making the record- Utilizing Digital Electronic Records, September 2013 National Centre for State Courts www.ncsc.org

divisions, and this resource is deployed flexibly according to particular needs. The provision of these services is managed through a senior officer.

Library

The judges' library is based in the Supreme Court building in Nicosia and is used largely by the legal officers. This library is staffed by a qualified librarian, and publications are up to date. It is interesting to note that this library may also be used by members of the legal profession.

Each judge has their own PC with access to the internet and a legal database which may be used for legal research. We understand that legal officers also use this database when performing legal research. The courts themselves do not keep a database of judgements, nor are all judgements of the Supreme Court published on the courts website. It appears that CYLAW, a free website provided by the Cypriot Bar Association, is the most comprehensive judgement and legislative database currently available to the judiciary.

Training

The EU Justice Scoreboard has consistently highlighted the lack of training for the judiciary in Cyprus. While no initial or ongoing training is currently provided to the judiciary, plans to introduce a formal training programme are in progress. On the initiative of former Supreme Court Judge Erotocritou, a report on the creation of a School for Judicial Training in Cyprus has been completed and is now being implemented.

2.2.2.7 Accommodation and storage

While the Supreme Court building in Nicosia is a new and impressive building, accommodation for the registry is very small and cramped, which is not helped by the fact that the registry for the newly formed administrative court, pending relocation to a new building, is currently located in the same area. Filing facilities within the registry are basic, with storage being a particular problem. The Review Team was informed that the storage issue was exacerbated due to staffing shortages which meant that archived files could not be processed for destruction. The location of so many active files in a basement located at some distance from the registry leads to operational inefficiencies and increases the risk of documents being misfiled or lost. It also impedes the compilation and analysis of statistics and management information. Files must remain in the registry for many years in various states of preparedness for trial, unable to be finalised yet still needing to be accounted for, and managed. From an organisational and management perspective this is less than satisfactory.

Paper-based systems are particularly vulnerable to disaster such as flood or fire as, by their very nature, they do not easily lend themselves to back-up. The Review Team was informed that there is no formal disaster recovery protocol in operation for the Supreme Court Registry. However, the informal electronic register is backed up daily, and the backup disk is stored in a separate section of the courthouse.

Standard good governance procedures would normally dictate that matters such as those referred to above should be brought to the attention of the appropriate authorities within the organisation, such as the Supreme Court in its role as overseer of administrative matters. It appears, however, that there is currently no formal protocol for the routine discussion and resolution of such risks.

2.2.2.8 Facilities and information provided to court users and the public

Use of Information Technology

As discussed in more detail in Chapter 3 below, in the 2017 EU Justice Scoreboard¹⁹ Cyprus scored poorly in the area of providing information about the justice system to the public and other court users. When compared to websites in England, Ireland, and Malta, the amount of information provided to court users and the public in Cyprus is very limited, and there is no capacity to initiate proceedings online or to download relevant forms. Information on how to initiate and pursue actions is neither available electronically or by way of leaflets or information booklets in the registry. It is proposed that many of these shortcomings will be addressed with the implementation of the proposed E-Justice project. It should be acknowledged that staff in the registry willingly provide procedural advice and assistance to lay applicants on the completion of cases. This advice, quite correctly, does not extend to legal advice.

Public Areas

The Supreme Court building is impressive, and there appears to be ample accommodation for those who wish to attend proceedings. Meeting rooms are provided where lawyers and their clients, or staff and members of the public, can meet in private should the need arise.

However, difficulties arise for novice users attempting to navigate the building. There is no signage in the main hall and, while there is a security desk manned by the police, there is no reception desk or staff member assigned to answer queries. The lack of signage in the main hall also inhibits members

¹⁹ The 2017 EU Justice Scoreboard, European Commission, p 18

of the public from locating the registries. Once in the courtroom, the absence of microphones can make it difficult to hear what is being said, particularly in the main courtroom.

Payment of Court fees

Fees must be paid to allow for lodgement and service of cases. A payment facility is not available in the courthouse, meaning that applicants must purchase their stamps elsewhere and then return to lodge their papers. In Ireland this facility is available in each court office and, under licence, at many other locations throughout the country.

Media relations

The Supreme Court, or the courts in general, do not have a dedicated information office/officer to provide a media relations service and assist with such tasks as website management, compilation of statistics, reports, and updates, and media briefings. This service is commonplace in other jurisdictions. It allows for publications and announcements to issue systematically, and for the necessary interaction with the media to take place, while also ensuring that the judiciary is not perceived to be accounting directly to the media.

Customer satisfaction

The absence of a courts user group, one that could facilitate interaction with, and feedback from, members of the public and other court users, was notable, as was the lack of customer surveys. The establishment of such groups and the use of periodic surveys can be beneficial in assessing levels of service delivery, and in identifying the requirements of both lay and professional users of the courts. Feedback such as this can prove particularly beneficial when undertaking procedural reviews or initiating change.

2.2.2.9 Key issues and challenges in the operations and efficiency of the Supreme Court

As the workload of the courts has generally increased over recent years, and the backlog of appeals at the Supreme Court has grown along with the other duties of that court, the management and administration of the system has suffered. An inevitable consequence of a lack of time for management, together with a lack of professional training in the skills of management, is a system that is under-managed and under-led, and subject to serious delays. This is currently the situation generally with the courts system in Cyprus, and it also applies to the Supreme Court.

The key issues and problems identified may be summarised as follows:

- There is now a chronic problem of delay, particularly in hearing appeals, with some civil cases taking as long as 9.5 years from initiation at first instance to conclusion of appeal in the Supreme Court.
- Management processes, including management planning and analysis, are weak and are contributing to a failing system.
- Given the wide range of functions of the Supreme Court, there is a need to consider how judicial time can be used most effectively and efficiently to address the high priority issues. This must include addressing how the level of inputs, and throughputs, can be influenced so as to address the current problem of backlog and delay.
- The administrative system is entirely paper- based, leading to significant inefficiencies in areas such as file preparation, case management, statistical collation and analysis, and work organisation.
- The lack of ICT was a notable feature of the court administration, both internally and in interaction with external users. For example, email is not routinely used for standard items such as arranging meetings or distributing agendas.
- Administrative case management is rudimentary, not least in the absence of ICT support, and there is a lack of standardised criteria for judicial case management. There are no clearly established, and publicly available, guidelines for the scheduling of cases before the court.
- Registry accommodation, and storage space, needs improvement.
- The current problems relating to the delays in recording of court proceedings need to be addressed.
- Lack of a structured, documented, training plan for staff and registrars, and lack of formal training for the judiciary, is contributing to inconsistencies in practice, inefficiency in operations, and increases the risk of loss of corporate knowledge.
- Supports to the judiciary are limited. Legal research facilities could be used more efficiently and effectively, and legal database facilities need to be upgraded.
- Payment of court fees is cumbersome, with limited facilities for court users.
- Standardised information relating to frequently asked questions is not available to the public, either electronically or in hard copy. Opportunities for more regular interaction with the public and court users need to be developed, and the Supreme Court building needs to be made more user friendly.

At Chapter 4 we set out some recommendations for addressing these issues, but next we address the situation in the District Court and other courts of first instance.

Summary of Issues and Challenges in the Supreme Court

- Chronic delays in hearing appeals
- Weak management processes
- Need for more efficient use of judicial time
- Inefficient paper-based administrative system
- Lack of ICT
- Weak case management
- Accommodation problems
- Delays in receiving transcripts of court proceedings
- Lack of training
- Lack of supports to the judiciary
- Payment of court fees is cumbersome
- Lack of standardised information for the public

2.2.3 Review of the operations and efficiency of District Courts and other first instance courts

The Terms of Reference required that a functional review of the operation and efficiency of the District Courts and other first instance courts be conducted, to include:

- A review of the administrative processes and procedures of the District Court.
- A review of the organisation and allocation of work within the support office.
- A review of current case management processes.
- A review of the supports provided to the District Court Judiciary.
- A review of facilities and information provided to court users and the public.
- A consideration of options to improve efficiency and service delivery.

In the course of reviewing the operations and efficiency of the District Courts and other first instance courts, the IPA Review Team specifically examined:

- Overall performance of the courts.
- Management and administration.
- The day-to-day operation of the Registries, including the business processes that underpin the management and operation of the work of the District Court.
- Organisation and allocation of work in the support offices.
- Case management in the District Court.
- Administrative, technical, professional and other supports provided to the judiciary.
- Facilities and information provided to court users and the public.
- Issues facing the courts of specialised jurisdiction.

2.2.3.1 Role, function and performance of District Courts and other first instance Courts

Role and Functions

The District Court and other courts of specialised jurisdiction in Cyprus operate under the control and supervision of the Supreme Court. The main legislation establishing and governing the courts of first instance is the Court of Justice Law 14/60. This law provides for the establishment of the District Court and regulates the appointment and number of judges assigned to that jurisdiction. The **District Courts** have jurisdiction to hear at first instance civil cases where the cause of action has arisen wholly or in part within the limits of the District where the Court is established, or where the defendant resides or carries on business within that District. The District Court Judges have also jurisdiction to try at first

instance, summarily, all offences punishable with imprisonment for a term not exceeding five years or with a fine not exceeding €85,000, or both.

The **Assize Courts** have unlimited jurisdiction to try, at first instance, all criminal offences punishable by the Criminal Code or any other law. They have power to impose the maximum sentence provided by the relevant law.

As noted at 2.1.2, in addition to the District Courts there are a number of specialised first instance Courts and Tribunals. These are:

- The **Administrative Court**, composed of seven judges, was established in January 2016. It adjudicates upon administrative recourses, under Article 146 of the Constitution. Such recourses are filed by persons having a legitimate interest in the annulment of administrative acts or decisions. The primary aim of establishing the Administrative Court was to lighten the caseload of the Supreme Court and to reduce the delay in the hearing of cases before that court.
- The **Rent Control Tribunals**, which have jurisdiction to try all disputes arising from the application of the Rent Control Laws. A Rent Control Tribunal is composed of one President, who is a Judicial Officer, and two lay members representing the landlord and the tenant respectively. The Rent Control Tribunal sits in each District.
- The **Industrial Disputes Tribunal** hears cases by employees for unjustified dismissals and redundancies. It is composed of one President (who is a Judicial Officer), and two lay members representing the employer and the employee respectively. The Tribunal sits in Nicosia and Limassol and, on certain days, in Larnaca and Paphos.
- The **Military Tribunal** has jurisdiction to try offences committed by the members of the Armed Forces under the Criminal Code and the Military Criminal Code. It is composed of one President, who is a Judicial Officer, and two military officers who have no power of decision. There is a single Tribunal which sits in Nicosia, but the Tribunal also circuits in other districts.
- The **Family Courts** have first instance jurisdiction to hear matrimonial petitions for the dissolution of marriage as well as all relevant property disputes between the spouses. They also have exclusive first instance jurisdiction to hear cases of custody, maintenance, access and adoption of children. They are composed of one President and two other Judges. There are Family Courts, sitting in Nicosia, Limassol, Paphos, and Larnaca.

Judicial Structure

There are **106** members of the Judiciary assigned to the courts of first instance. There are three ranks of District Judges: District Court Judge, Senior District Court Judge, and President of District Court. Each District Court is presided over by the Administrative President, who is the most senior Judge in the District. The overall management and supervision of each District Court by the Supreme Court is exercised through the Administrative Presidents. All communication to and from the Supreme Court is directed through the Administrative President. He/she submits the proposed schedule of work and allocation of judicial duties for each legal year to the Supreme Court. If approved, this schedule and allocation is then implemented by the Administrative President. A Judicial Organisation chart is attached at Appendix D.

Administrative Structure

The Chief Registrar of the Supreme Court is the head of the judicial and administrative staff in the courts of first instance, while day-to-day management of the registries is carried out by a Senior Administrative Registrar in each location. The registries providing administrative support to the courts are attached to each District Court, and certain specialised courts as detailed above. The total administrative staffing complement is **365**.

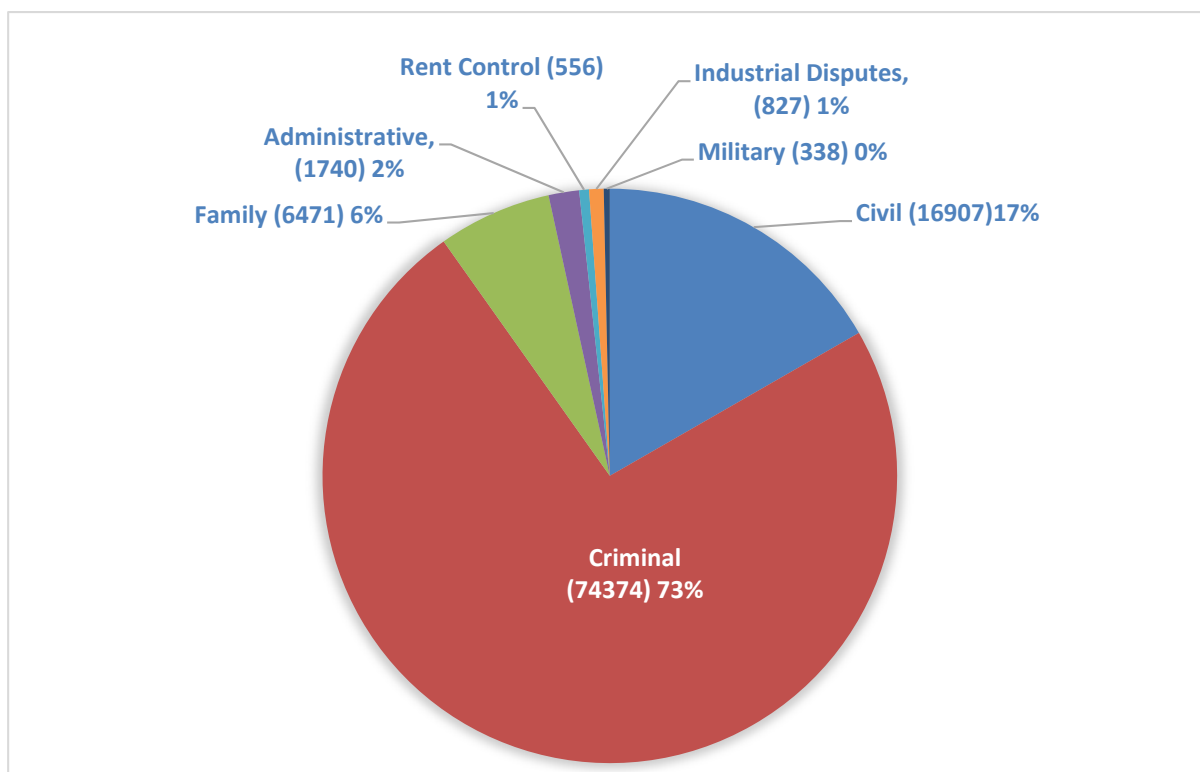
Staff is divided into two streams:

1. **Judicial support:** Registrars, stenographers, bailiffs, and legal officers.
2. **General Support Staff:** Clerical staff (interchangeable staff), messengers and cleaners (hourly paid staff), security staff (police or private sector), and other staff (interpreters, librarians, Technical Assistants).

Caseload

A total of 101,213 cases were disposed of by the courts of first instance in 2016. The breakdown of cases disposed of by type is illustrated in Fig. 2 below.

Figure 2 Cases Disposed of by the Courts of First Instance (2016) by Category, Number and Percentage



Caseload statistics indicate an overall decrease in cases filed annually of approximately 38% between 2010 and 2016. As seen in Table 2 below the decrease of 40% in criminal cases filed from 117,495 in 2010 to 70,158 in 2016 is particularly notable. The Review Team understands that this decrease is attributable, at least in part, to the diversion of less serious cases from the courts system by way of on-the-spot penalties issued by the police.

Table 2 - Annual Statistics – District Court – Criminal (All Districts) 2010-2016

| Year | Pending at the end of the previous year | Filed | Determined | Pending at the end of current year |
|------|---|---------|------------|------------------------------------|
| 2010 | 60,948 | 117,495 | 105,301 | 73,142 |
| 2011 | 73,142 | 123,281 | 124,754 | 71,669 |
| 2012 | 71,669 | 118,410 | 108,068 | 77,430 |
| 2013 | 77,430 | 104,432 | 94,947 | 86,937 |
| 2014 | 86,937 | 102,341 | 113,511 | 75,763 |
| 2015 | 75,763 | 80,767 | 87,975 | 60,330 |
| 2016 | 60,330 | 70,158 | 74,374 | 56,114 |

Table 3 details the trends in lodgement and disposition of civil cases from 2010 to 2016. Since the economic crisis in 2010 there has been a sharp increase in the number of civil cases filed by financial institutions, e.g. non-payment of mortgages, and by citizens claiming misrepresentation in the selling of financial products by banks. These cases are complex, involve significant levels of discovery, and do not lend themselves to speedy disposition. The increase in the backlog of civil cases since 2010 is 83%.

Table 3 – Annual Statistics – District Court – Civil (All Districts) 2010-2016

| Year | Pending at the end of the previous year | Filed | Determined | Clearance rate % | Pending at the end of the current year |
|------|---|--------|------------|------------------|--|
| 2010 | 26,950 | 27,438 | 22,246 | 81.1 | 32,189 |
| 2011 | 32,189 | 24,181 | 23,715 | 98.1 | 32,655 |
| 2012 | 32,655 | 25,569 | 21,342 | 83.5 | 36,888 |
| 2013 | 36,888 | 25,375 | 19,586 | 77.2 | 42,679 |
| 2014 | 42,679 | 22,335 | 19,522 | 87.4 | 42,556 |
| 2015 | 42,556 | 20,551 | 16,794 | 81.7 | 49,541 |
| 2016 | 49,541 | 16,175 | 16,907 | 104.5 | 48,809 |

The Family Court, as detailed in table 4 below, appears to be in a position to dispose of cases expeditiously in that it determines the same number of cases as it receives each year. This is not to say that some cases don't take a considerable time to determine, but to indicate that there is no significant rise in the number of cases pending since 2010.

Table 4 – Annual Statistics – District Court – Family (All Districts) 2010-2016

| Year | Pending at the end of the previous year | Filed | Determined | Clearance rate % | Pending at the end of the current year |
|------|---|-------|------------|------------------|--|
| 2010 | 3,687 | 6,607 | 6,697 | 101.4 | 3,596 |
| 2011 | 3,596 | 6,598 | 6,744 | 102.2 | 3,446 |
| 2012 | 3,446 | 7,195 | 7,257 | 100.9 | 3,378 |
| 2013 | 3,378 | 6,249 | 6,231 | 99.7 | 3,039 |
| 2014 | 3,039 | 6,070 | 6,128 | 101.0 | 2,979 |
| 2015 | 2,979 | 5,805 | 6,496 | 111.9 | 3,389 |
| 2016 | 3,389 | 6,663 | 6,471 | 97.1 | 3,581 |

Performance and the problem of delay

As was also noted in the case of the Supreme Court, a standard indicator used to measure the performance of a court is the length of time a case takes from initiation to disposition. Based on an examination of the statistical information available to the Review Team, and confirmed in discussions with all participants during the project, the major issue identified with performance in the District Courts is the issue of delay in the hearing of cases which proceed to trial. As criminal cases are generally given priority, and as a consequence the problem of delay is not as acute as with civil cases. This problem of delay in civil cases is more acute in some courts than others, with Limassol on average having the longest delay (2.8 years) while Larnaca had the shortest (1.7 years).

The clearance rates in Tables 1 to 3 above show that the main area of concern is with civil cases where the increase in the number of cases awaiting final disposition is 83% since 2010. The EU Justice Scoreboard for 2017²⁰ further confirms the problem, and shows that Cyprus ranks among the EU countries with the highest number of civil and commercial cases pending hearing per 100 inhabitants.

²⁰ The 2017 EU Justice Scoreboard, European Commission, p 11

The 2017 EU Justice Scoreboard also shows that in the majority of member states, between 2010 and 2015, the disposition rate for civil cases is approximately 100%.²¹ This demonstrates that the clearance rate in Cyprus, at approximately 85% for the same period, lags significantly behind that in the majority of member states. The Scoreboard also shows that the increase in the number of outstanding cases per 100 inhabitants is not reflective of the trend in the majority of member states.²² While some states, such as Portugal, Croatia and Slovenia, have more outstanding cases, the number of such cases is actually dropping, unlike Cyprus, where, as Table 3 above demonstrates, the number is increasing.

This deteriorating situation in the Cypriot courts is a cause for concern, and a cause of dissatisfaction among judiciary, staff, legal practitioners, and citizens.

2.2.3.2 Management and administration of the District Courts and other courts of first instance

As noted above, the Administrative Registrar is responsible for the effective day-to-day management of the registry. In carrying out this function, the Registrar has a working relationship with the Administrative President in relation to providing support for the court. The Administrative President acts as the main communications link on judicial matters between the District Courts and the Supreme Court.

In relation to administrative matters, while there is ongoing informal communication, there appears to be no regular formal engagement with the Chief Registrar, who is the Head of Administration for the courts of first instance. The Administrative Registrar is not currently required to develop a business plan for the office. The established practice is that the Administrative Registrars write to the Chief Registrar raising problems, suggesting solutions or asking for extra staff, whenever the need arises. Also, once a year they compile the Administrative President's Report.

There is currently no regular forum provided to the Administrative Registrars, or indeed to staff or the judiciary more generally, to discuss common issues or make suggestions for administrative, operational, or procedural reform. The lack of formal management processes related to planning, analysis of management information, training plans, and problem identification and analysis already noted as problems in the Supreme Court were also observed as problems in the District Courts.

²¹ EU Justice Scoreboard 2017 figures 7 and 8

²² EU Justice Scoreboard 2017 figures 10 and 11

2.2.3.3 The administrative processes and procedures of the District Court registries

The administrative practices and procedures in the District Court Registries, and in registries attached to the courts of specialised jurisdiction, are highly regulated. They are largely based on the requirements of legislation, and the relevant rules of court. The procedures as set out in the rules are fully applied by the registry staff. Yet while staff apply the provisions of the court rules, there is a divergence in the interpretation and application of procedures between registries. There are no standardised written procedures or guidelines to complement the rules of court, and therefore procedures and rules are being applied inconsistently.

As was our observation regarding the Supreme Court, similarly at District Court level the most notable feature of the administration of the registries is the fact that, apart for some limited use of word processing, it is a completely manual system. While there are a number of PCs available in each office, it appears that they are a shared resource for a number of staff. External email is available but does not appear to have widespread use, while there is limited or no internal email. Equipment is outdated and, where problems arise with computers, no local ICT support is available. In such cases, the ongoing work is delayed until assistance from the central helpdesk of the Department of Information Technology (DITS) at the Ministry of Finance is provided.

The absence of IT-based case filing and tracking systems leads to cumbersome procedures, for example the need to attend at the court office to initiate a case, and to file documents. An almost complete dependence on paper-based files has resulted in difficulties with file retrieval, an inability to provide timely information to parties to cases, a lack of up-to-date management information, and has contributed to a generally deteriorating situation.

2.2.3.4 The organisation and allocation of work within the support office

The administrative structure within the registries reflect a standard hierarchical organisational structure. Each registry is managed by an Administrative Registrar, and is further organised in sections to provide appropriate support to the court.

The organisation and allocation of work within the support office is carried out in a traditional manner, and is completely dictated by the absence of any electronic case tracking system or electronic registers. For example, due to the absence of e-filing or online forms, legal practitioners and members of the public must attend in person at the public counter to lodge documents, thus taking up staff time. Court orders are generally produced through word processing using template forms.

When cases are initiated and lodged in the registry, the details are entered in handwriting in a manual register. This register forms the primary tracking system for the cases as it proceeds through the judicial process. Decisions of the court, including interim decisions and adjournments, are then entered in the register until the case is finalised.

Staff are fully occupied in manually updating the register, filing documents, and preparing the court files for hearing. A significant amount of time is spent locating misfiled or mislaid files, or court papers.

When experienced clerical staff leave, which can occur because they are classified as 'Interchangeable Staff' and employed by the Ministry of Finance (PAPD), the new staff are generally not familiar with the terminology or practice in a legal environment, and the time or facility is not always available to provide proper on the job training for them. There is no formal induction training available.

The situation is particularly critical in the area of stenography. As stenographers leave or retire they cannot be replaced, as this skill is no longer being taught. Stenotypists have been recruited through an outsourcing arrangement. While stenotyping provides a faster, more efficient and accurate service, it is also more costly and, for budgetary reasons, cannot be used to fully cover the vacancies at this grade. The shortage of stenographers has led to a situation where a number of different stenographers may be assigned to a court over the course of a hearing. When the order or transcript is required, the file must then follow each stenographer to allow the input of his or her particular record of the case.

The shortage of appropriately skilled staff, particularly in the area of stenography and legal research, is negatively impacting on the efficient use of judicial and court time. When a stenographer is not available for a court hearing, the judge, in addition to listening to the evidence and managing the progress of the hearing, is also required to take the notes of the case, leading in some instances to a serious delay in the production of the written record or order, not to mention the negative impact on the time taken to conduct proceedings. The extension of the use of stenotyping, which is currently limited and often confined to serious criminal cases, was considered by a number of participants to be the most effective way to expedite the production of court judgements and transcripts.

Indeed, shortage of staff resources was a recurring issue raised by all participants. Since the economic crisis in 2010, staff have typically not been replaced. The increased complexity of caseload in certain areas, coupled with the loss of corporate knowledge following the departure of experienced staff, has negatively impacted on the capacity of the registries to support the business of the court. However,

this problem is seriously compounded by lack of case management and an absence of ICT support, making it impossible to accurately assess staffing needs until a more streamlined and efficient system, including ICT facilities, is put in place. Finally, while staff in the registries appear knowledgeable of their responsibilities and the requirements of the rules of court, there is no organised opportunity for formal technical or management training or development.

Case Studies

In order to observe at first hand the administrative procedures, organisation and allocation of work, and other facilities within the support offices, the Review Team visited the registries at Nicosia and Larnaca. The registries are responsible for providing the day-to-day support to the court. They ensure that all relevant cases and files are prepared correctly in advance of Court, that complete sets of all necessary documentation are distributed to the members of the court in advance of proceedings, that all parties are informed of proceedings, and that suitably trained stenographers and support staff are in place for hearings. The following provides a brief description of the registries, and some of the key issues and problems identified.

Nicosia District Court Registry

The registry, which provides support to both the sittings of the Civil, Assize and Criminal Courts, is located in an old, and disjointed complex of buildings beside the Supreme Court. The operational management of the registry, staff and buildings is the responsibility of the Administrative Registrar. The total staffing complement (excluding the judiciary) of the registry is 109. This figure includes registrars, clerical officers, stenographers, bailiffs, librarians and other support staff. These staff provide support to 32 judges.

Office accommodation for the registry is very small and restrictive. The problems in the civil registry were particularly notable. Filing within the registry appeared to be both somewhat basic and chaotic. In addition to open shelves filled with court files, documents and files were also piled high in every available space in the back office, including on desks and on the floor. There was limited space in which the staff could operate. The criminal registry appeared more orderly, not least due to the reduced level of documentation required in most criminal cases, and the relative speed with which cases are disposed of.

Both public counter areas were very limited and lacking in facilities. The civil registry counter area included a large table where legal clerks from law firms were stamping documents in the process of

lodging papers. This contributed to a generally noisy and chaotic environment around the public counter area.

The task of managing in such a disconnected complex of buildings poses routine problems for the Administrative Registrar. For example, the Registrar is regularly required to go from building to building to deal with problems, to provide support or advice to staff, or to speak to customers. Files are regularly lost or misdelivered between buildings. All of this contributes to the sense of a disorganised and unprofessional environment, where the possibilities for efficient and effective working are seriously curtailed.

The storage area for the registry was particularly problematic (please see illustration at Appendix I). Files are kept in a number of separate areas and at some distance from the registry. The condition of the storage area was very poor, and the limited space for filing contributed to a generally chaotic environment. Access to some parts of the archive is hazardous, and it would be difficult, possibly even dangerous, for the staff to retrieve files from certain areas. No manual handling protocol or training is in place. It was also indicated that greater clarity is required around the timeframes and criteria for archiving and destruction of files, as this was not happening in an orderly way.

Larnaca District Court Registry

The District Court Registry in Larnaca is located in a relatively modern building on the outskirts of Larnaca. The registry supports the sittings of the Civil, Assize and Criminal Courts for both Larnaca and Famagusta Districts. There are separate sub-registries within the main registry, for the Larnaca and Famagusta Districts. The total staffing complement of the registry is 70. This figure includes registrars, legal officers, clerical officers, stenographers, bailiffs, librarians and other support staff. This staff supports 15 judges. The operational management of the registry, staff and buildings is the responsibility of the Administrative Registrar.

In contrast to the situation in Nicosia, the accommodation in Larnaca was better proportioned and had a more modern layout. There appeared to be sufficient space for the staff. There was more evidence of the availability of computer and other office equipment, and the filing system, while still fully paper based, was orderly. There was a general sense of organisation and control of the business of the registry. The situation is helped by the more integrated layout of the building

The problems of the filing and retrieval of active cases, and the archiving of finalised cases, as identified in the Nicosia registry above, were also an issue at the Larnaca registry. Storage in the registry is more orderly but, as it is entirely paper based, still poses challenges for file retrieval.

2.2.3.5 Case management within the District Courts and other courts of first instance

In a courts system, case management is the proactive process using rules, procedures and practice by which a case is moved from initiation to disposition within an acceptable timescale. Case management is typically divided into administrative case management and judicial case management, each of which form an integral part of an effective case management process. From an administrative perspective it is important to assume control of the progress of a case from its initiation. The following was noted with regard to case management in the courts of first instance system in Cyprus.

Administrative Case Management

The main case management tools applied by the registries of the courts of first instance in Cyprus are those of application of the relevant rules of court and accepted practice and procedure. The registries ensure that all relevant documentation is received within the specified timeframes and in accordance with the rules.

In civil cases, once the case initiation documents are filed appropriately, the case is allocated to a judge. This allocation is random and is intended to ensure that practitioners have no influence over which judge hears the case. Once allocated, the judge has ‘ownership’ of the case to disposition.

Apart from the administrative requirements of noting the orders of the courts, maintaining the register of cases, and preparing the files for court, the registry plays a limited case management role. It does not monitor delay or compliance with the orders of the court, with the exception of an annual report to the Administrative President.

In criminal cases the judge must approve the filing of a case by the prosecution before it will be accepted by the registry. While this is intended to prevent the filing of unsubstantiated complaints, the reality seems to be that it is a purely paper exercise carried out in chambers with very few, if any, cases refused. If the case is not subsequently served on the defendant, the file remains active and is scheduled for court on a recurring basis until it is served and proceeds or, alternatively, until it is withdrawn by the prosecution.

It is noteworthy that, when scheduling cases, the courts do not take account of the police work rosters. This can often lead to situations where officers are required in court on their days off or when they are scheduled to work at night. As a result, adjournments must regularly be sought, thus leading to further delays in finalising cases.

The absence of an electronic register means that file management is generally cumbersome and case retrieval is difficult. Up-to-date statistical and management information is not readily available. Monitoring of compliance with directions and timescales is not feasible.

Judicial Case Management

Once a case has been allocated to the judge, the normal steps of pre-trial procedures, direction hearings, and interim cases occur prior to the fixing of a date for hearing. During this period, judicial case management is intended to ensure that the case is moved along, that pleadings are lodged, directions are complied with, and that the parties prepare to proceed to trial without undue delay. If a case is actively managed by the judge and respected by the parties, this process should be effective.

From our observations and discussions during this project, judicial directions and deadlines are routinely ignored, and generally no sanctions are applied. There are no pre-trial protocols to allow the judge to identify non-contentious evidence and isolate the net issues of the case. A disproportionately high number of interim applications are made, often at the expense of the substance of the case.

Each judge has complete control over the management of the court diary and decides the criteria employed to allocate hearing dates. This individualised approach leads to inconsistencies in practice. There is no standardised approach to setting of dates. In discussions with judges and practitioners, we were informed that it is generally accepted by all parties that trial dates are not considered credible, and that parties do not expect the case to proceed on the fixed date. This has created an environment where regularly either lawyers are not fully prepared to proceed or witnesses are not available. As a result, the case is adjourned.

The general approach of the judiciary is to give priority to the hearing of older cases. In many instances, these have been delayed precisely because of the behaviours and practices outlined above. This prioritising of older cases could be considered to mitigate against those newer cases where directions and timescales have been complied with, and where lawyers have fully prepared for a definitive trial date.

In summary, while the Supreme Court, in conjunction with the Administrative Presidents, monitors the level of cases pending in the courts of first instance, and the waiting times, there are no standardised administrative or judicial case management tools in use. There is little evidence of active management of cases from initiation to disposition. There is an individualised approach to judicial diary management and a high level of adjournments and interim applications. In short, the system appears to be very loose. This gives rise to, among other things, considerable uncertainty regarding the standing of trial dates once they are set. In such circumstances, adjournments have become commonplace, and parties appear to be resigned to waiting for a considerable time to have their cases finally heard.

Judicial Time

The most important resources available to a courts system to ensure that cases are heard in a fair and equitable manner, and within an acceptable timeframe, are judicial time and a consistent approach to case management. Based on the evidence presented during this review, judges, in order to help maximise the use of their time, need to be stricter in the application of rules and less accommodating of practitioners who do not comply with directions or deadlines. Some judges are overly tolerant of time-wasting behaviour that prevents a case from proceeding. This has contributed to less respect for the court and for the use of judicial time.

There is currently a lack of flexibility in the overall management of court time. For example, where cases do not proceed and a judge becomes available, there is no facility to transfer cases awaiting hearing from another court. Due to lack of ICT, legal, and stenography supports, judges are spending valuable time taking notes in longhand during hearings, conducting their own legal research, and preparing written judgments for even the most minor cases. It is also noteworthy that all District judges spend approximately two hours a day dealing with relatively routine cases and case management issues, many of which, in comparable jurisdictions such as Ireland and England, are dealt with by designated case management judges or court officers. Cases for hearing are then scheduled for the same duration in the early afternoon. Provision of proper ICT, legal research, and court recording support would free up judicial time and allow the judiciary to more effectively exercise their core function, which is to hear and adjudicate on legal disputes.

Legal practitioners, and litigants, are generally reluctant to try for an amicable settlement and prefer to fully try each matter. Universal and inexpensive access to the Supreme Court on appeal is perceived to be contributing to a lack of preparation effort by lawyers and litigants in the District Courts, as they

are aware there will always be an additional opportunity to try the case. Coupled with what is perceived to be the low cost of mounting an appeal, the view is that litigation is often seen as the first, and best, option. The Certain Aspects of Mediation in Civil Matters Law of 2012 (Law 159(I) of 2012) provided the framework for the use of Alternative Dispute Resolution in civil cases. However, the decision to use mediation is completely voluntary for both parties. As a result, it is little used, either in pre-action or during the course of proceedings.

2.2.3.6 The supports provided to the Judiciary

In common with the Supreme Court, the District Court judiciary and the judges assigned to other courts of first instance have a number of supports available to them to carry out their duties.

Operational Support

The Registries provide the main operational support to the courts. The Registry manages and tracks all cases from initiation to finalisation and in accordance with the relevant practice, procedure and Rules of Court. It ensures cases filed are ready for court, court lists are prepared and appropriate staff are assigned to support hearings. The main comments of the Review Team in relation to the operation of the Registries are at 2.2.3.3 and 2.2.3.4.

Accommodation and Security

Administrative Presidents are provided with an office and separate additional space for secretarial support. In general, other judges are provided with a chamber or small office space. In the sites visited by the Review Team, there appeared to be no designated security for the judge, either in chambers or on the bench. Judges access the building and car parks through an entrance shared with the public.

Information Technology

Each judge is provided with a PC, with MS-Office software, and access to the internet. Printers are also available. Internet speed is typically slow, and access is not consistently available. Where ICT problems arise, support is provided by the Help desk of the Department of Information Technology (DITS). Based on information provided to the Review Team, this is not always responsive or timely.

Secretarial/Stenography

Each Administrative President of the courts has a dedicated secretarial support. District Court judges on the other hand must rely on the availability of stenographers to carry out secretarial work. Due to a shortage of stenographers, it is not always possible to provide a stenographer for each court hearing.

In these cases, the judge must take the notes of the case, in addition to listening to the evidence and managing the progress of the hearing. As a result, significant delay is experienced in the preparation of court records.

Library and Research facilities

There are legal libraries attached to the courts in Nicosia and Larnaca. Many of the resources available to the judiciary are in hard copy only. Access to online legal libraries and databases is limited to CYLAW, the free online legal library of the Cypriot Bar Association, and Leginet. The Review Team understands that access to sites such as Westlaw and Lexis Nexis was available in the past, but this was withdrawn during the financial crisis due to limited use of the facilities and low cost-benefit. While the library is staffed by a librarian, other staff attached are not legally qualified and are not in a position to provide support for legal research. As a result, in many cases the judiciary tend to carry out their own legal research.

Training

As with the Supreme Court, there is no regular access to ongoing training or continued professional development for the judiciary. Newly appointed members of the District Court bench do not appear to receive any type of induction or time management training. A 10-day orientation programme under the guidance of two Supreme Court judges has been provided to a number of the most recently appointed judges. The provision of training or mentoring by a more senior judge would have significant benefits for more consistent interpretation of the court rules. In general, standardisation of practice and procedure, together with more efficient management of court time, would be supported through regular training and development support. The establishment of the new Judicial School will be most welcome in this regard.

Communication

Other than with the Administrative President, communication within the District Court judiciary appears to be limited, and where it occurs is on a very informal and localised basis. While both communication by letter and email is used by the Supreme Court and the Administrative Presidents, there is no formal communication policy. Not all judges access their emails or provide an email address as a contact point.

2.2.3.7 Facilities and information provided to court users and the public

Buildings and Security

In order to get a better understanding of the infrastructure available, the Review Team visited the courthouses at Nicosia and Larnaca.

Nicosia Courthouse

The District Court of Nicosia occupies 7 standalone buildings in a single site adjacent to the Supreme Court Building. The buildings date from the colonial period and are in poor condition with few modern facilities. The disconnected layout of the complex has a significant impact on the efficient use of space, staff resources, and legal practitioner time. There is a shortage of courtrooms, leading to wastage of hearing time and subsequent delay. Office and registry accommodation is also less than satisfactory as detailed in section 2.2.3.4 above.

The courts have been making the case for a new court complex for the last 20 years. The requirement to build a new court facility is recognized by the Department of Public Works, but has not yet been progressed. It is expected a project will be announced shortly.

Since 2013 the Family Court of Nicosia, the Industrial Disputes Tribunal, and the registries are located in the centre of Nicosia in rented premises. This arrangement is considered to be inconvenient for both judges and lawyers, who are usually based in the District Court building. It is intended to renovate the old Supreme Court Building at a cost of €5.6m to house both courts, but the whole project has been delayed. However, we understand that tenders are expected to issue in due course.

Larnaca Courthouse

The District Courthouse in Larnaca is a relatively modern building situated on the outskirts of the town. Despite this there are reports of serious and regular maintenance problems.

Since 1974, while Larnaca Courthouse also houses the registry for Famagusta District Court, criminal hearings for some minor offences take place in an apartment building in Paralimni. It was recognised that this is not an appropriate venue for the court and a new courthouse project is underway. The new building will also be in Paralimni, and the first phase consisting of 5 criminal courtrooms is expected to commence in November 2017, with a completion date of November 2019.

While each judge has a chamber or office space, there is not always a courtroom available for each judge. This leads to a waste of judicial time and contributes to delay. The courtrooms are poorly laid out, with mismatched and uncomfortable furniture. They are not conducive to efficient working. Based on our observations, acoustics in court were generally poor. The inability to follow proceedings was compounded by the lack of microphones and the ambient level of noise in the buildings. Courtrooms are not cabled for ICT.

The Public Offices in Larnaca have a directly visible access to the full registry. As a result, even when the office was closed customers were attempting to get the attention of staff and looking for assistance.

In terms of security, entry to the courts is by a common access point for all customers. There are no metal detectors or security checks carried out on access. There are no separate circulation spaces for the staff and judiciary, and few facilities for legal practitioners. There are a small number of interview rooms. While the Review Team observed a police presence in a number of the courtrooms, this appeared to be for the purpose of attending at court sessions, and we understand they did not have any specific role in maintaining the security of the building or providing protection for the judiciary or staff. Lack of adequate security in the courts was mentioned as a problem by many of the participants spoken to as part of this project.

Other Sites

While the Review Team did not have the opportunity to visit the courthouses in Limassol and Paphos and see these facilities at first hand, we understand the position to be as follows.

Limassol

The Civil Courts in Limassol are based in a relatively new courthouse built 12 years ago. Sittings of Criminal Courts and the specialised courts take place in the original building, which is now in very poor condition. A requirement for new courtrooms has been identified.

Paphos

Work has commenced on the construction of an additional building adjacent to Paphos District Court, at a cost of €6m. The new building is expected to be completed in March 2018. The Family Court currently uses the chamber as a courtroom. The problem will be solved with the development of the new facility.

Information and ICT

The volume of attendance at the public counter in the registries by lawyers, police, and members of the public is much greater than is the case in the Supreme Court, and the staff deal with a wider variety of queries. Despite having to provide the same information on a repeated basis, there are no information leaflets available in the public areas setting out the more easily explained procedures and answers to common queries. The website also has very limited information available. Information regarding court lists and the allocation of cases to particular courtrooms is not easily accessed. Signage in both Nicosia and Larnaca is limited, making it difficult for members of the public to navigate the buildings.

A similar situation to that already outlined in the Supreme Court pertains in the first instance courts with regard to technology tools available to the public and the court users. The use of information technology is limited, and there is no facility to initiate a case online or to download forms electronically. There is no Wi-Fi available for public use in the court buildings. There is little or no use of ICT for interaction or communication with the legal profession. This is a cause of much frustration, particularly for legal practitioners whose offices are fully technology-enabled.

Payment of Court Fees

Prior to lodgement of a document in the registry, fees in the form of adhesive stamps are paid for at facilities in each courthouse operated by the Cyprus Bar Association. The fees are comprised of a number of different types of stamps and denominations, including revenue stamps, advocate stamps and levies towards the Bar Association legal databank and pupillage costs. This generally requires the lawyer or complainant to manually affix the stamps. This is a slow, cumbersome, and outdated method for the payment of court fees. It is intended this process will be eliminated with the implementation of the E-Justice project.

Lack of Professional Court Environment

The absence of a professional “court-like atmosphere”, or formal professional environment, was raised as an issue by the judiciary, staff and lawyers alike, and the problem was confirmed by observation at court sittings. A number of factors seem to contribute to this:

- The layout and condition of court buildings is sometimes poor.
- In some cases, a lack of respect for the fact that a court is in session. For example, no attempt to keep noise to a minimum.

- Ease of access to court buildings due to lack of any security or management of entry points.
- No separate circulation spaces for judiciary, staff, lawyers and public.
- No dress code for staff attending court.
- No appropriate court room furniture.

Communication with Court Users

While there is informal and day-to-day contact with the registry and lawyers, police and prison service, and the public, there is no regular structured forum for court users to raise concerns, to provide feedback on the service provided to customers, or to suggest initiatives.

2.2.3.8 Issues in the specialised courts of first instance

The Review Team met with the Administrative Presidents and representatives of the judiciary and staff of the specialised courts of first instance. With the exception of the Industrial Disputes Court, where there is a large backlog of cases, the problem of delay is not as critical in the specialised courts. Inefficient case management and the requirement to revise the Civil Procedure Rules were highlighted as factors impacting on the effective operation of these courts. Issues related to inadequate accommodation, security, file storage and stenography were reflective of those experienced in the District courts and registries.

Support was expressed for the introduction of compulsory pre-trial mediation for family cases, the creation of a judicial support unit, and a shared access to judicial researchers. The lack of a formal process through which legislative suggestions, or initiatives on legislative amendments, can be put forward was identified as a particular difficulty.

2.2.3.9 Key issues and challenges in the operations and efficiency of the District Courts and other courts of first instance

The key issues identified relating to the District Courts and other courts of First instance may be summarised as follows:

- Serious problem of delay in hearings, ranging from 1-7 years in civil cases in the District Court.
- Management of the system, including for planning, management analysis, and ongoing management of change, is weak. There is a lack of formal management processes, including regular team meetings.

- Administrative and management procedures, though functional, are completely paper-based and would benefit from implementation of updated practices, as have been implemented in other jurisdictions.
- Because they are almost entirely paper based, there are significant inefficiencies in administrative systems such as for file preparation, case management, statistical collation and analysis.
- There is no active case management in operation, and there appears to be no established, publicly available, guidelines for the scheduling of cases before the court.
- There is poor management of judicial time, and resources, including courtrooms, are not used flexibly.
- There is inconsistency in interpretation and application of the rules and procedures by both the judiciary and the registries.
- The limited use of Alternative Dispute Resolution was acknowledged by all users of the courts, which is impacting negatively on the problem of delays.
- Registry space and storage is totally inadequate, particularly in Nicosia, where working conditions are intolerable. This impedes efficient administration and management, while increasing the risk of loss of court documents.
- There is currently a serious problem of risk, for example related to the lack of back-up for paper-based files housed in old buildings. But there is no formal risk management process, and no disaster recovery planning.
- Lack of a structured, documented, training plan for staff and registrars, leading to inconsistencies in practice and increase in the risk of loss of corporate knowledge.
- The lack of training or mentoring for the judiciary has been identified as a deficiency, although this is now being addressed with the establishment of the Judicial School. A training programme is scheduled to commence in 2018.
- There is a lack of formal communication processes. There is no network or forum to discuss common issues for either judiciary or staff, leading to untapped ideas and frustration.
- The lack of ICT, and the lack of capacity to fully realise the benefit of the current ICT functionality, is a notable feature of the court administration, both internally and in interaction with external users. E-mail, though available to all members of staff and the judiciary, is not routinely used for standard matters such as arranging meetings or distributing agendas.
- The E-Justice Project requires ongoing evaluation and monitoring by the Supreme Court to ensure the project delivers the required outcome for the business of the courts.

- Lack of a professional court environment.
- Accommodation in some of the courts is inadequate.
- Security in the courts is inadequate, which poses risks.
- The method of payment of court fees is outdated.
- Basic information on the role and functions of the courts or on the daily court lists is not available to the public either electronically or in hard copy. The use of ICT between courts and lawyers is also among the lowest in the EU.²³
- Lack of opportunities for interactions with court user so as to develop a client focus, and to support quality assurance and continuous improvement of the system.

The question of how to address these issues and challenges will be considered in detail in Chapter 4.

Summary of Issues and Challenges in District Courts and Other Courts of First Instance

- Serious problems of delay
- Weak management system
- Inefficient paper-based administrative systems
- Lack of case management
- Poor management of judicial and courtroom time
- Inconsistent application of Rules of Civil Procedure
- Limited use of Alternative Dispute Resolution
- Inadequate Registry and Storage space
- Risk from fire and other threats
- Lack of training
- Weak communication channels
- Need for ongoing engagement with major projects
- Lack of professional court environment
- Weak security in court
- Payment methods are outdated
- Basic information not available to court users

²³ The 2017 EU Justice Scoreboard, European Commission, P20 Fig.23.

2.2.4 Review of the Management, Governance and Supports in the Courts

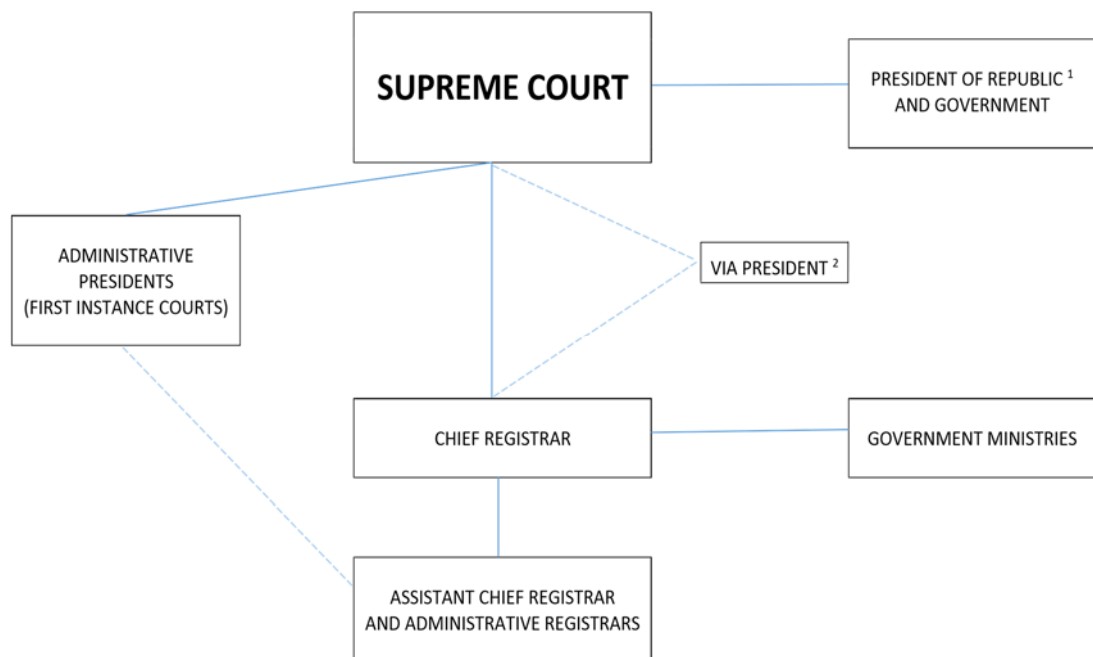
The Terms of Reference (ToR) for the project, specifically component 3, included the requirement to carry out a functional review of the management of the courts to include:

- A review of the current governance, structure and management of the courts system including the relationship with central government Ministries
- A review of the current arrangements for the provision of supports to the courts system, in the areas of operations management, finance, human resource management, information technology, and estate management.

As previously noted, issues relating to the management, governance, and operations of the courts, and the various supports currently available to the courts and the judiciary, arose during the first two phases of the project. A number of these have been discussed in some detail above in the sections dealing with the Supreme Court, the District Court and other courts of first instance. In this section we highlight, by way of summary, the key issues and challenges arising in relation to these areas.

The overall governance structure of the courts system in Cyprus is set out below.

Figure 3 - Current Governance Structure of the Courts



1. Appointment of President and Judges of Supreme Court
2. President is competent authority

2.2.4.1 Management roles and functions

The Supreme Court has overall responsibility for the administration of the courts system and is accountable for the use of public funds assigned to the courts. Each District Court is presided over by the Administrative President, who is the most senior Judge in the District. While the overall management and supervision of each court by the Supreme Court is in practice exercised through the Administrative Presidents, all judges are independent in the exercise of their judicial function.

All communication to and from the Supreme Court is directed through the Administrative President. He/she submits the proposed schedule of work and allocation of judicial duties for each legal year to the Supreme Court which, if approved, is then implemented by the Administrative President.

The Supreme Court is supported in the administration of the courts by a staff of 437, headed by the Chief Registrar. An administrative organisation chart is at Appendix E.

The Chief Registrar

The Chief Registrar of the Supreme Court is the head of the judicial and administrative staff and is responsible for the day-to-day management of the administration of the courts. The Chief Registrar has a wide-ranging and onerous dual role, one that encompasses both statutory and administrative functions. As the senior management figure for the administration of the courts system, the Chief Registrar is responsible for the operational management of the registry of the Supreme Court and for the management of the registries of the courts of first instance. The Chief Registrar is supported in her role by the Assistant Chief Registrar who, in addition to her operational and management duties, deputises for the Chief Registrar when required.

Statutory responsibilities of the Chief Registrar include acting as the Admiralty Registrar, the Chief Registrar of Probates, and the Sherriff. Some of these functions are delegated to the senior registrars. As Controlling Officer, the Chief Registrar has shared responsibility, with the relevant officer of the Accountant General assigned to the Supreme Court, for the preparation and management of the annual budget of the courts.

The Chief Registrar also acts as the Secretary to the Supreme Council of Judicature and, in that role, is the formal link between the Supreme Court and the administration. The Chief Registrar ensures the correct application of procedural rules and acts as the representative of the Supreme Court in its

interaction with the Ministry of Finance and Ministry of Justice and Public Order, the Department of Public Works, and other government bodies.

The current all-encompassing, and mainly operational, role of the Chief Registrar does not allow for a more strategic focus on the management of the courts. Strategic plans, business plans and annual reports are currently not produced.

Administrative Registrars

The operational management of the registry in the courts of first instance, including of staff, operations and buildings, is the responsibility of the Administrative Registrar in each location. The Administrative Registrar is responsible for the day-to-day management of the registry. In carrying out this function, the Registrar has a working, rather than a reporting, relationship with the Administrative President in relation to providing support for the court.

The Administrative Registrar is not currently required to develop a business plan for the office. While there is ongoing informal communication with the Chief Registrar in her role as head of administration for the courts of first instance, there was no evidence of any regular, formal engagement. There is no formal process whereby problems or issues can be brought to the attention of either the Administrative President, Chief Registrar, or the Supreme Court as appropriate. There is no forum currently provided to the Administrative Registrars, as a group, to discuss common issues or suggestions for administrative, operational, or procedural reform.

The relationship between the Supreme Court and the administrative system

The Supreme Court is the decision-making, administrative, and supervisory authority for the courts system. This authority is exercised through the President of the Supreme Court, who is the Competent Authority in relation to budgetary and staffing matters.

The Chief Registrar implements the decisions of the Supreme Court on the instructions of the President. There is, typically, daily engagement between the President and the Chief Registrar and a weekly meeting of the full complement of the Court to deal with matters of administration. The Chief Registrar acts as secretary to this meeting, but does not play an active role in setting the agenda or in the decision-making process. While the Chief Registrar attends the meetings, she is not required to provide any regular management information, analysis, or reports for consideration at these meetings. When the Chief Registrar assesses that there is a need for additional funding or staff, it is

the President of the Supreme Court as the Competent Authority who must give formal approval to proceed to the Ministry of Finance with such a request.

In theory, the authority for capital building, ICT, or other projects that impact directly on the courts system rests with the Supreme Court. In practice, however, the Court is not directly involved in the development or management of projects affecting the courts system. This is understandable given the onerous legal responsibilities and workload of the Supreme Court. However, as a consequence, there is currently a lack of clarity about who is practically responsible for representing the courts management on important projects such as the E-Justice system and capital building works. In other court administrations such as the UK and Ireland, responsibility for specific areas such as major ICT projects or estate management is assigned to designated managers or to specialist sub-committees.

Other aspects of the role currently undertaken by the Supreme Court in Cyprus are also performed by separate agencies in comparable jurisdictions. For example, in Ireland judicial appointments are the responsibility of the Judicial Appointments Advisory Board,²⁴ and in Malta judicial misconduct is dealt with by the Commission for the Administration of Justice.²⁵ This allows for these functions to be afforded appropriate priority, while also reducing the workload of the Supreme Court.

2.2.4.2 The relationship with other government ministries

General

The main central government agencies with which the courts interact from the perspective of management and administration are the Ministries of Justice and Public Order, the Ministry of Finance (including the Public Administration and Personnel Department (PAPD) of that Ministry), and the Department of Public Works. The courts engage on a daily basis with other agencies such as the police service and the prison service.

As Controlling Officer, the Chief Registrar is responsible for liaising with each of these organisations from an administrative perspective. The President of the Supreme Court liaises with the Ministries for Finance and Justice in relation to judicial matters, insofar as is permitted by the Constitution.

²⁴ Court and Court Officers Act 1995 13 of 1995 S 13

²⁵ Commission for the Administration of Justice Act, XI of 1994

Below we set out the nature of interaction with the three major Ministries: Justice and Public Order, Finance, and Public Works.

Ministry of Justice and Public Order

The Ministry of Justice and Public Order is responsible for the promotion, review and reform of legislation in areas that effect the administration of justice, such as criminal law, civil law and family law. The Ministry's mission statement states that its responsibilities also include "the promotion, in collaboration with the Supreme Court, of legislative and administrative measures for the unhampered administration of Justice and the smooth functioning of the courts."²⁶ The Minister represents the courts at the Council of Ministers.

While the Ministry of Justice and Public Order's remit includes the promotion of measures to enhance the administration of justice and promote the smooth running of the courts, there was little evidence of any formal process, including regular scheduled meetings, to progress initiatives in this area. However, it is noted that the Minister has initiated regular meetings with the Supreme Court. The most recent catalyst for significant change within the system, which led to the Erotocritou Report of 2016, was initiated by the Supreme Court itself. While the Courts Reform Steering Committee, which includes representation from the Ministry of Justice and Public Order, set up in 2017 for the purposes of this reform could be deemed to fulfil part of this function, it currently only meets regularly to deal with the functional review of the courts and does not address a wider reform agenda.

Ministry of Finance

The Ministry of Finance is the body responsible for ensuring compliance with overall government financial policy. As such, it has a significant role in the approval, or otherwise, of resources for any initiatives proposed by the courts. The Ministry is also the body through which the Courts submit their annual budget to the Council of Ministries and to the House of Representatives, in a similar manner to all other Independent Services or Constitutional Powers. While, as noted earlier, the Minister has indicated his support for the reform of the courts system, he was also clear that any proposal for additional resources must be linked to tangible reforms culminating in the creation of a modern courts system, reflective of the needs of a modern state.

²⁶ Mission Statement of the Ministry of Justice and Public Order, at www.mipo.gov.cy

The Public Administration and Personnel Department (PAPD) of the Ministry is the body responsible for approving the recruitment of staff to the courts. It also advises the courts on human resource policy and best practice/developments in the area of human resources management in general. The courts make contact with PAPD when there are administrative vacancies to be filled, but do not appear to engage in any form of workforce planning whereby both organisations can plan to provide for future vacancies and manage the overall skills portfolio. PAPD has indicated that it will consider carefully any reform initiative which may impact on its area of responsibility. The Ministry of Finance is also represented on the Courts Reform Steering Committee.

Department of Public Works

The Department of Public Works, in its capacity as the buildings management agency for all government bodies, has overarching responsibility for the construction and maintenance of court buildings in Cyprus. Works carried out by the Department are paid for out of the courts budget. The courts request assistance when remedial works are required, but do not appear to routinely prepare a schedule of maintenance which sets out priorities.

Quality of Engagement

In general, the courts management expressed satisfaction with the level of access afforded to them, including at ministerial level, whenever such access is requested. While there appears to be a good working relationship with the ministries, engagement tends to be reactive rather than proactive. The general working relationship between the courts and the relevant government ministries is generally of an ad hoc nature, and there was little evidence of an integrated, cohesive and planned approach to providing support to the courts so as to ensure that the work of the courts is completed as efficiently and effectively as possible.

Administrative structures are in place to ensure that a budget is approved and that staff and buildings are provided. These structures are not, however, subject to regular review to ensure that they are fit for purpose and achieving the best results for the courts and their users, or achieving value for money for the state. In a modern, user-focused courts system, the support structures typically receive much more attention than is currently the case in Cyprus, in recognition of the fact that effective management of all aspects of the support system enhances the capacity of the judiciary to perform its core function of dispensing justice. The management of the relationships with central government ministries and other agencies is an essential component of this process.

2.2.4.3 Finance

Budget

The courts' budget is administered by staff of the Accountant General's office. This system seems to work well, and the Accountant General's officers monitor expenditure patterns on a monthly basis. However, the role of the courts in this process appears to be somewhat passive, and all aspects of budgetary administration and management seem to be regarded as the responsibility of the Accountant General, even though the Chief Registrar is the Controlling Officer for the courts.

Budgetary Process

The annual budget for the courts is prepared predominantly by reference to the previous year's budget, thus reflecting ongoing operational needs rather than also incorporating the strategic or longer-term future requirements of the courts. While this is understandable, given that past expenditure provides evidence of spending patterns, it is not sufficient, and it is reflective of a system more concerned with the administration, rather than the management, of a budget. While projecting budgetary requirements for ongoing expenditure items such as payroll is relatively straightforward, other requirements require more detailed consideration and analysis. These areas include ICT, estate management, capital building projects, and judicial and staff training and development. Budget submissions need to reflect the considered management view in relation to both current and future requirements of the courts.

The development of this capacity for strategic financial planning and budgeting will become even more critical in the light of recent developments. The Fiscal Responsibility and Budget System Law 2014 (Law 20(I)/2014), to which the courts will be subject from 2018, will impact significantly on the budgetary process of the courts. In accordance with the legislation, line ministries and government agencies are required to implement new procedures for budget preparation, including the development of strategic plans and related three-year activity-based budgets. The system also provides for monitoring the achievement of objectives through key performance indicators (KPIs), and for the evaluation of the efficiency and effectiveness of activities funded by the budget. The Accountant General will provide training to facilitate the change to accrual accounting by 2020. The responsibility for the preparation of strategic plans, KPIs and budgetary monitoring will require significant training and resourcing, and responsibility for these matters will have to be assigned at a senior level.

This legislation will impact substantially on the finance and management function of the courts. It will further add to the responsibilities of the Chief Registrar, acting as Controlling Officer, and of the

Supreme Court as the body responsible for the ongoing management of the courts. While the provisions of this legislation are standard in comparable jurisdictions such as Ireland and the United Kingdom, the courts in Cyprus, as currently organised and managed, will struggle to comply with these new responsibilities.

2.2.4.4 Internal Audit

The lack of an internal audit unit within the courts system is notable. While the current control systems appear to work, there is no independent internal validation to support this. The Auditor General conducts annual external audits. However, these cannot provide the ongoing assurances that an active internal audit system can provide. At present, requests for payment are processed through the accounts section administered by the Accountant General's staff. There does not, however, appear to be any ongoing scrutiny of the adequacy of the procedure for approving payments, or compliance with those procedures. Furthermore, there is no independent confirmation of the adequacy of systems of internal control, such as ensuring that correct fees are lodged with each application.

The current administrative system within the courts cannot provide adequate assurance to the Supreme Court, as the body responsible for the effective management of the courts, that funding for capital projects, such as E-Justice or the construction of the new courthouses, is being used effectively and appropriately for the benefit of the courts. Providing such assurances would be a standard feature of an internal audit function.

2.2.4.5 Human Resource Management

Human resource management (HRM) refers to the management of people within a business or organisation. A key principle of HRM is that staff are an organisation's most important asset and are central to its success. The aim of effective HR management is to support the delivery of the strategy and business of the organisation by ensuring the effective management of people, including numbers, placement, capacity, and skills. This involves using tools such as workforce planning, recruitment and retention strategy, training and development, and the management and recognition of staff performance. The support and management of change is also a vital part of the HR function.

As noted earlier, the courts system in Cyprus is a small dispersed organisation with 5 administrative offices managing the courts and supporting the Judiciary. The total staffing complement in 2017 is **437**. Staff is divided into two streams:

1. **Judicial support posts (174)** (fixed positions - the management and allocation of staff is the responsibility of the Chief Registrar.)

- Chief Registrar
- Assistant Chief Registrar
- Legal Officers
- Registrars
- Stenographers
- Bailiffs.

2. **General Support Staff (263)**

- Clerical staff (interchangeable staff)
- Messengers, cleaners (hourly paid staff)
- Security staff: police or private sector
- Other staff: Interpreters, Librarians, Technical Assistants

The Chief Registrar of the Supreme Court is the head of all personnel except judges.

Conditions relating to remuneration, terms of employment, job descriptions and pensions are determined centrally. The management and control of the HR function mainly emanates from the Public Administration and Personnel Department (PAPD) of the Ministry of Finance. Appointments and promotions of administrative staff are managed by the Public Service Commission.

Recruitment

General clerical and support staff are recruited by the Public Service Commission and then allocated to the judicial service. The Supreme Court has no input into the selection process. The staff are employees of the Public Administration and Personnel Department. Job descriptions for these staff are generic. As these staff are classified as interchangeable, they can be moved to another department or ministry after 1-2 years. Many interchangeable staff appear to exercise the option to transfer out of the courts. According to the information provided to the Review Team, retention rates are generally low.

The Public Service Commission also recruits legally qualified staff for the judicial service. The interview process for legal officers has recently been replaced by a written examination and assessment. The feedback received by the team would indicate that this change has been a success.

Staffing Levels

Over 90% of the staff are deployed directly in court operational areas. These staff provide support for the judiciary and administration of the courts system, court sittings, and one-to-one customer service at public counters in the registries. The work is specialised in nature and requires a high level of technical competence. A number of specialised jurisdictional courts require further specific expertise. A good working knowledge of the rules of court and of court practice and procedure, as well as accuracy and attention to detail, are essential for working in this area.

Shortage of staff was a recurring issue raised by all participants. Since the economic crisis in 2010 staff have not always been replaced on retirement. The increased complexity of caseload in certain areas, coupled with the loss of corporate knowledge on the departure of experienced staff, has negatively impacted on the capacity of the registries to support the business of the courts.

In 2010, at the start of the economic crisis, the approved staffing complement for the courts system was 458 supporting a judiciary of 104. This represents a ratio of 4.4 staff per judge. In 2017, the staffing complement was 437 supporting 119 judges, representing a staff support ratio per judge of 3.7. This reduction in staffing support ratio of 16% comes during a period of increasing caseload in certain areas, the establishment of an additional court (the Administrative Court), the development of the E-Justice project, and a loss of corporate knowledge through retirements.

A shortage of appropriately skilled staff, particularly in the area of stenography and legal research, is also negatively impacting on the efficient use of judicial and court time. Meanwhile, there are few, if any, dedicated court staff assigned to operational support areas such as ICT, Estate Management, HR or Finance.

While an immediate increase in staffing levels is perceived to be the solution to many of the problems in the administration of the courts, an appropriate staff complement for the courts cannot be determined in isolation from the introduction of modern management practices supported by technology.

Workforce Planning

As noted earlier, there is no formal workforce planning process to anticipate future staffing movements or future requirements. Workforce planning helps to identify the key challenges facing the organisation in relation to filling vacancies and the management, motivation, development, and retention of staff in the organisation. It helps with the assessment of what these challenges are likely to be and how they should be addressed. Furthermore, workforce planning would consider the potential impact of future changes in structures, workloads, staffing levels, and technology on the management of the courts.

There are currently no regular management meetings to discuss the operation of the registries and any staffing issues that might arise. As a result, resource allocation is undertaken on the basis of individual submissions at a particular time and does not arise arising from systematic forward planning or periodic review.

Training

There is no dedicated training resource, or planned training and development programme provided to the staff of the courts. Courses in the Cyprus Academy of Public Administration are available mainly for administrative staff, but we understand take up by courts staff is low. There are no procedural handbooks available to staff.

The training process appears to be one of “look and learn,” with few, if any, opportunities for formal training. Knowledge tends to reside in the individual assigned to a particular area, and there is no planned process to transfer or share this knowledge. Where experienced clerical staff are replaced, the new staff are generally not familiar with the terminology or practice in a legal environment, and the time or facility is not always available to provide proper on the job training for them. There is no formal induction training available.

In general, there is no formal planning of technical or management training and development. In relation to interchangeable staff, the investment of time and effort in technical training relating to the processes of the courts system may prove unproductive in the long term given the levels of turnover.

It should be noted that it is intended that the new Judicial School, once fully resourced, will provide ongoing training and development for the judiciary.

Management of Performance

The current Performance Appraisal system, which is used across the civil service, is considered to be inadequate. Annual appraisals are carried out for each member of staff at the end of the year, but they are considered to be formulaic and staff generally receive a high rating. Appraisals are not linked to an evaluation of training needs or to the disciplinary process, and underperformance is not adequately addressed.

Engagement with Staff

There are no formal opportunities for staff to interact with senior management or office managers, or with each other, to contribute to discussions relating to the organisation or operation of the courts, or to share and resolve common issues with other members of staff. There are no staff climate surveys or similar reviews.

The HRM Challenge

Aside from the day-to-day management of operations, and the formal but generally ad-hoc interaction with PAPD, there is little active HR management. In an organisation like the courts, which is now entering a phase which is likely to be characterised by a high level of change, the need for a well-equipped HR management function cannot be over-emphasised. A major challenge for the organisation will be how to manage and implement significant change without further negatively impacting on the delivery of its ongoing services.

2.2.4.6 Information Technology

Current Situation

As observed in the previous sections dealing with the Supreme Court and the District Court, the most notable feature of the administration of the courts is the fact that, apart for some limited use of basic office software, it is a completely manual system. The lack of internal ICT infrastructure and facilities and of online services to the public means that the courts struggle to meet the demands of an increasingly computer literate staff and clientele, who would assume they can perform their business with the courts electronically, as they would with other organisations.

The absence of an electronic register means that file management is poor and case retrieval is difficult. From a management perspective, up-to-date statistical and management information is not readily available, thus rendering the ongoing management of systems, monitoring of trends, and the

allocation of work, extremely difficult. Monitoring of compliance with directions and timescales is currently not feasible. Technology-enabled business procedures cannot be introduced without the supporting technology and the skills necessary to use such systems.

E- Justice Project

In comparable systems such as Ireland, Northern Ireland and the United Kingdom, ICT is an integral part of the administration of the courts and is the means by which court users, internal and external, conduct the majority of their business. This has been recognised by the authorities in Cyprus and an ambitious E-Justice project has been undertaken with a view to fully computerising all aspects of court work by the middle of 2020.

Table 4 E-Justice Project – Schedule of Work

| A/A | Description | Duration in Months | Start /Completion Dates |
|-----|--|--------------------|-------------------------|
| 1. | Request for Proposal / Submission of Tenders | 6½ | 17/03/2017-22/09/2017 |
| 2. | Tender Evaluation – Tender Award – Sign of Contract | 8 | 23/09/2017-23/05/2018 |
| 3. | Project Initiation Document (PID) | 1 | 23/05/2018-23/06/2018 |
| 4. | System Development / Parameterization | 14 | 23/06/2018-23/08/2019 |
| 5. | Testing / Pilot Phase | 6 | 23/08/2019-23/02/2020 |
| 6. | 3 months' extension of Pilot Phase (optional) The option will be exercised if it is deemed necessary by the courts. | 3 | 23/02/2020-23/05/2020 |
| 7. | System Deployment / Production Phase | 72 | 23/05/2020-23/05/2026 |
| 8. | Option to renew Contract for another 4 years | 48 | 23/05/2026-23/05/2030 |
| 9. | System Warranty for 12 months (in case that the Government decide to buy/get the ownership of the system). | 12 | 23/05/2030-23/05/2031 |

When implemented, this E-Justice project will involve wide- ranging change to the administration of the courts, requiring comprehensive training for all stakeholders. Experience in Ireland has shown that such change requires detailed management, adequate project resources and active sponsorship at the highest level within the organisation. The President of the Supreme Court, and his colleagues on the Courts Reform Steering Committee, are supporters of the project and anxious to see it implemented without delay. In this context, the support and management role of the Steering Committee will be vital.

It is important that the E-Justice project makes necessary provision for the reform of business processes. It is also extremely important that the E-Justice project is not implemented in isolation. It must be integrated and coordinated with other initiatives, such as with the recommendations emanating from this functional review, and from the forthcoming review of the rules of court.

Management Information

Certain management information is currently available through the periodic financial reports compiled by the Accountant General, whose transactions and payments are recorded on their own financial system. The courts have difficulty, however, in meeting with the requirement to produce and analyse statistics and information, both for themselves and for external users such as government agencies and the European Commission.

The introduction of accrual accounting in 2020 will provide significant opportunities for the enhancement of management systems in the courts. This system will deal with, inter alia, accruals, liabilities, fixed assets, payroll, and HR. Prior to the introduction of the new accounting system, the Accountant General will provide training to each agency on its use. This will present a significant opportunity for the courts to use the new system not just to enhance its administrative capacity but also to enhance its capacity to manage.

It is envisaged that data captured on the E-Justice system will be used to enhance the capacity of the courts to gather and analyse statistics and information, and to assist the courts in the compilation of management information. Decisions taken at the design stage on the storage, management and categorisation of data will be crucial in order to maximise the potential benefits of the new system.

2.2.4.7 Estate Management

Maintenance and Minor Work

Ongoing estate management, apart from cleaning services which are provided in-house, is provided either by, or through, the Department of Public Works (PWD). This arrangement is one which has evolved over time, and there is no formal agreement with the courts regarding the level of services to be provided, the timescale for providing these services, the quality of any works undertaken, or the responsibility for funding these works.

The local PWD office undertakes any minor remedial or substantial works required. PWD undertake the works and the cost is then refunded from the Court's budget. There is no definition of what constitutes a 'substantial' piece of maintenance or of what constitutes a priority. The ad-hoc nature of this arrangement provides no proper assurances to the courts that maintenance works deemed by them to be a priority will be completed expeditiously, as PWD also provide maintenance services for several Government departments and agencies.

Capital Projects

The courts management, as the client, have little input into the planning for approved new capital projects for the courts. In essence they inform PWD of the number and size of courtrooms they require. PWD then prepare, issue, and evaluate tenders without the further involvement of the courts, until the detailed design phase of the project is reached.

When tenders are being prepared, the PWD receive minimal input from the courts on matters such as overall design, circulation areas, ICT requirements, security requirements, adjacency of registries to courts, location of judicial chambers, location of prison cells, facilities for stakeholders and other matters affecting the smooth daily operation of a modern courthouse. Similarly, there is no mechanism for consultation on the plans with court users, including lawyers, prison staff, and police service.

Should the tender documentation fail to adequately reflect these and other relevant requirements, it is particularly difficult to remedy any shortcomings once the contract has been awarded. This can lead to a situation where courthouses are being constructed that do not adequately reflect the needs of their users and are not providing the optimal value for money and best use of scarce resources.

This lack of continuous input by the courts into all stages of the tender process must be regarded as a significant deficiency. In essence, major building projects with unique requirements are being progressed without the active involvement of the end user. Such involvement would help ensure that any new capital projects would meet the needs of users now and into the future, while ensuring that resources were used with the needs of the courts, and their clientele, in mind.

It is noteworthy that the current capital projects for Famagusta and Paphos are being undertaken on a “design, build and maintain” basis, with the maintenance being the responsibility of the contractor for 12 years once construction has been completed. While this has to be considered a positive development, its success will depend, inter alia, on how well the responsibilities of the contractor are defined, and how actively the arrangement is managed from the courts’ perspective.

Current Accommodation Problems

The accommodation problems in court buildings visited by the team have been identified in the previous sections dealing with the Supreme and District Courts. However, the buildings in Nicosia District Court Complex must be singled out as completely unfit for purpose. First-hand observation by the team confirms the unsuitability of the courtrooms, registries, and storage facilities for conducting the business of a modern court.

It is planned to rectify this by constructing a new courthouse. This plan has been in place for several decades, but it has not been acted upon for financial reasons. The conditions in Nicosia have been the subject of specific comment in the Kramvis report of 2012, and the more recent Erotocritou Report of 2016.

Notwithstanding the adverse comments in these reports, there is no evidence of continuing structured dialogue with the Ministry of Justice and Public Order to improve matters pending the release of funding for the proposed courthouse. In Ireland and the UK, it is common for buildings to be leased as an interim solution to accommodation problems. Such buildings are typically used for storage, registry, and court purposes, particularly in civil and family proceedings where special structural requirements, such as prisoner accommodation, are not a requirement.

Risk

The lack of a dedicated estate management remit within the courts also raises concerns regarding fire safety, risk management and business continuity planning. From an estate management perspective,

fire risk extends to buildings and, more importantly, the safety of court users. Estate management also has a function in risk management, as it can work in collaboration with local management to mitigate risks such as damage to records, theft, and general issues of security. The estate management function also extends into the area of business continuity planning in that it can assist local management to ensure the business of the courts can continue in the event of emergency such as fire, flood and unforeseen events.

2.2.4.8 Key issues and challenges in the management and governance of the courts system

The key management and governance issues and challenges identified are summarised below, but they should also be read in conjunction with the issues identified in the Supreme Court and District Courts and other courts of first instance. The issues may be summarised as follows:

- No integrated management structure covering all aspects of the operation and support of the courts system.
- Rigid management structure with little upward feedback. The relationship between Chief Registrar and the Supreme Court is formal and not reflective of the dynamic relationship required in the modern court environment.
- Lack of formal management processes and meetings. Management actions are reactive rather than proactive and strategic.
- No formal communication processes. There is no network or forum to discuss common issues for either judiciary or staff. No formal structure for liaison with other government ministries.
- Absence of strategic or business planning.
- No analysis of management information to identify problem and implement initiatives for reform or improvements, and no annual report.
- Lack of budgetary planning. The courts' budget is not based on a cohesive strategy or business planning.
- No internal audit function.
- Insufficient oversight of key projects by the Supreme Court.
- No designated HR function.
- No workforce planning, little training or development or management of performance.
- Lack of staff engagement and low retention rates.
- Administrative system is fully paper based.
- Lack of ICT infrastructure and basic ICT equipment and poor technical support.
- Absence of dedicated internal estate management function.

- Major problems with Nicosia Courts Complex.
- Lack of ownership, or ongoing active involvement, in all aspects of key capital projects.
- Absence of interim solutions to building issues/ no proactive approach to providing solutions to storage/ optimising space.
- High level of risk/ no risk management.

These issues will be considered in the context of the setting out of recommendations in Chapter 4. A summary of the issues and challenges at each stage of the process, from case initiation to hearing of appeal, is presented in diagrammatic form at Appendix J.

Summary of Issues and Challenges in Management and Governance

- No integrated management structure
- Lack of formal process
- Lack of strategic and business planning
- Lack of management information
- Lack of budgetary planning
- No internal audit function
- Insufficient oversight of key projects
- No designated HR function
- Lack of staff engagement
- Poor ICT infrastructure and lack of support
- Lack of estate management function
- Significant accommodation problems
- High level of risk in the system

2.2.5 Rules of Civil Procedure

As noted earlier, while the review of the Rules of Civil Procedure (RCP) is the subject of a separate Technical Assistance project, we here draw attention to some of the issues that arose in the context of discussions regarding the efficiency and effectiveness of the courts system. In Chapter 4 we also draw attention to some specific changes that might be considered in the context of the Review of Rules of Civil Procedure.

2.2.5.1 Background

Rules of Court for different types of business define the procedure and conduct that applies when litigating a case before the court. The Rules of Civil Procedure in Cyprus are based on the Rules of the Supreme Court in England and Wales as were in force in 1960 when Cyprus gained independence. There has been minimal revision to the Rules since 1958, with the exception of recent amendments to Order 25 and 30. The rules were originally written in English but the above and other recent amendments were made in Greek, resulting in a set of rules available only partly in each language.

Under the Constitution of the Republic of Cyprus the rules making authority is vested in the Supreme Court.

The Supreme Constitutional Court shall make Rules of Court for regulating the practice and procedure of the Court in the exercise of jurisdiction conferred upon it by this Constitution, for prescribing forms and fees in respect of proceedings in the Court and for prescribing and regulating the composition of its registry and the powers and the duties of the officers thereof.²⁷

2.2.5.2 Current situation

It has been acknowledged for many years that there is a need for radical amendment of the Rules of Civil Procedure in order to expedite the administration of justice.²⁸ Since 1989 the Supreme Court have made a number of attempts to revise the rules, but it was not possible to reach agreement on the proposed changes. The main reason for the lack of success in this regard is cited in the 2016 Erotocritou Report as the level of legal-technical drafting required to ensure the revised rules are consistent with other legislation. The Supreme Court, given the constraints of their normal judicial work, do not have the time to provide this input of expertise.²⁹

²⁷ Constitution of the Republic of Cyprus, art. 135

²⁸ Piki's report

²⁹ Erotocritou Report 2016

More recently, the Supreme Court, following discussions within the court itself and with the Cyprus Bar Association, agreed the text of an amended O.25 and O.30, and these came into force on 1st January 2016. These rules are aimed at dealing with civil cases justly and at proportionate costs. Reservations have been expressed on various aspects of the new provisions, and a Supreme Court Committee is currently assessing further targeted amendments to these specific orders.

The Supreme Court itself, in the 2016 report,³⁰ recommended a full review of the Rules of Civil Procedure as a means of expediting the conclusion of proceedings. As noted earlier, this is now the subject of a separate EU technical assistance project

2.2.5.3 Views Expressed during Review Missions

It was the unanimous view of all the stakeholders consulted that the Rules of Civil Procedure are a major contributory factor to delay and to inefficient litigation practice and case management, and that there was an urgent need for a complete reform of the rules. The revised rules must enhance the regulatory role of the judge in the judicial process and provide for the more efficient use of judicial time. There is also a need to have a permanent committee to continually monitor and review the Rules of Court.

In the District Court, participants consulted as part of this review considered that by facilitating interlocutory applications and adjournments, the existing rules are a contributory factor in causing delay. The high level of interim applications takes up a significant proportion of court time, requires written judgements, and delays the setting of a hearing date.

The procedures as set out in the rules appear to be fully applied by the registry staff. However, some of these procedures were considered to be outdated, no longer fit for purpose and an impediment to efficiency. Staff were unable to cite any particular examples of rule changes that would make an immediate difference, but they were of the opinion that fundamental reform was required.

The judges attached to the first instance courts were also of the view that a full review of the rules was required as a matter of priority. It was also considered that the issue of practice directions from the Supreme Court relating to different procedural issues would be of assistance to both judges and lawyers. This option is not regularly used.

³⁰ At page 37

2.2.5.4 Current Rules as an aid to effective case management or efficiency

While there is widespread agreement that the Rules of Civil Procedure need radical reform, the current rules do provide the judiciary with certain case management powers. An example of case management powers provided to the judiciary can be found in Order 30 r 9:

The Court may, in any event, issue any additional directions, as it considers appropriate and just under the circumstances in accordance with the following criteria:

- (a) trying the case as soon as possible
- (b) securing the equal treatment of parties
- (c) saving or mitigating expenses
- (d) managing the case according to:
 - (i) the subject-matter of the dispute
 - (ii) the importance of the dispute
 - (iii) the complexity of the issues raised, either of fact or law.

The Rules also give the judge power to dismiss a case for want of prosecution, if no reasonable cause of action is disclosed in pleadings or if the case is vexatious or malicious (Order 27 r3).

The recent amendments to Order 25 and Order 30 have strengthened these powers by giving the judge a more active role in the conduct of the action. They have introduced a simplified and more expeditious procedure for claims under €3,000. The amended procedures eliminated the need for oral testimony in such claims, and the case is decided on the basis of written addresses. However, the expected benefits of those amendments have not been fully realized, due in some part to the inconsistent application of the new rules and the lack of guidelines as to their interpretation. The changes also continue to be resisted by some lawyers.

During our discussions, the problem of inconsistency in the interpretation and application of rules and practice directions by the judiciary was referred to on a number of occasions. In the registries, while staff apply the provisions of the court rules, there is also a divergence in the interpretation and application of procedures. There are no standardised written procedures or guidelines to complement the rules of court. While inconsistency in the interpretation, and application, of rules and practice directions can be a feature of any legal system, this is often addressed through ongoing training and seminars.

2.2.5.5. Revisions to the Rules

While the full review of the Rules of Civil Procedure will be the subject of a separate project, taking account of some of the issues identified as part of this functional review, and some of the changes that may be required in the context of implementing recommendations from this report, further discussion of this issue is to be found at Chapter 4, where certain points are brought to attention.

Chapter 3

A Comparative Perspective on Court Management, Administration and Judicial Practice

3. Introduction

Increasingly, comparative country perspectives are being used to monitor the performance of judicial systems and to design and plan future reforms. This involves both comparisons within a specific country over time and comparisons across countries. In this chapter we set the judicial system of Cyprus in a comparative perspective. In the first section we consider the performance of the judicial system from a comparative perspective. As noted by a number of studies,³¹ comparisons in this field have generally been hampered by a lack of accurate and available data. In the second section we consider, again as a basis for comparison with Cyprus, some specific aspects of the management and administration of judicial systems in selected other jurisdictions.

3.1 Performance from a Comparative Perspective

Efficiency

While there are a range of quantitative and qualitative measures that can be used for measuring the performance of a country's judicial system (and a number of the qualitative measures incorporated in the EU Justice Scoreboard are referred to later in this section), the time taken to process a case through the courts is generally considered to be a fundamental measure of performance. This is because undue delays in the courts affect the fairness and the efficiency of the judicial system, impede the public's access to the courts, and adversely impact the business environment.

From a comparative perspective, the problem of lack of efficiency in the judicial system in Cyprus have been well documented, and the problems of growing backlogs and delays have consistently been highlighted in cross-country studies. For example, the EU Justice Scoreboard for 2017 confirms the problem of delay in Cypriot courts. The Scoreboard also shows that the time needed to resolve cases is amongst the highest in the EU. The 2017 Scoreboard shows that Cyprus ranks among the EU countries with the highest number of civil and commercial cases pending hearing per 100 inhabitants (see Figure 4 below).

³¹ Dakolias M. Court Performance Around the World: A Comparative Perspective, World Bank Technical Papers, 1999

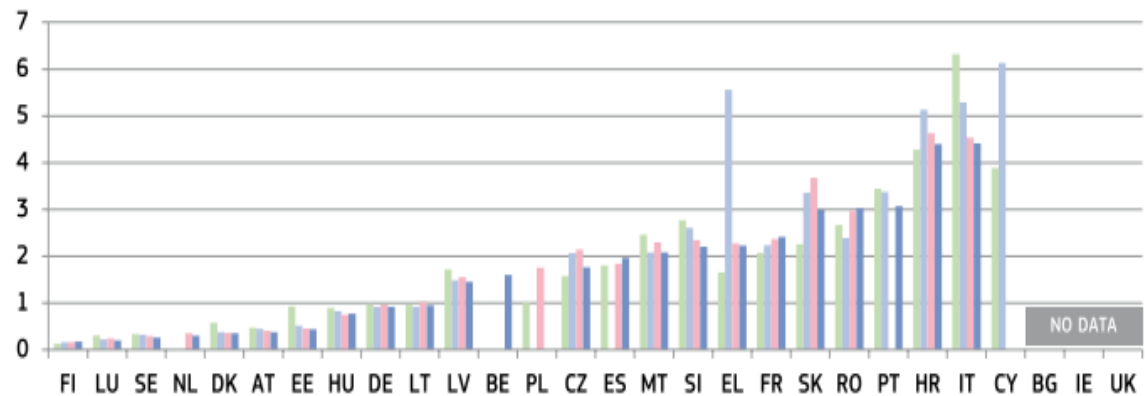
Figure 4 – Number of Pending Litigious Civil and Commercial Cases³²

Figure 11

Number of pending litigious civil and commercial cases (*) (1st instance/per 100 inhabitants)

2010 2013 2014 2015

Source: CEPEJ study



(*) Methodology changes in CZ, HR, IT, HU, MT, PT, and FI. Pending cases include all instances in CZ and SK. Data for NL include non-litigious cases. DE: data solely based on the statistics on the administration of justice published by the German Federal Statistical Office.

Reflecting the fact that lack of efficiency in the judicial system also adversely impacts on the business environment, the World Bank (Doing Business Report-Economy Profile for Cyprus 2016) produced a Quality of Judicial Process Index based on the following factors: court structure and proceedings, case management, court automation, and alternative dispute resolution. Using this measure, Cyprus performed poorly based on a cross-country comparison and the worst of the EU countries included in the survey.

The lack of efficiency in the Cypriot judicial system, and the threat this poses, is also referred to in the European Commission country report 2017:

The Cyprus justice system faces serious challenges as regards its efficiency. According to data collected through the 2017 EU Justice Scoreboard, the time needed to reach a first-instance judicial decision in civil, commercial and administrative cases is particularly long. The backlog of pending cases is also significant. These problems stem mainly from complex procedural rules prone to abuse and the low level of ICT use in courts. The inefficiency of the justice system is

³² See EU Justice Scoreboard

an obstacle to the swift resolution of civil and commercial cases... More generally, it may deter investment and dampen economic activity.³³

The International Monetary Fund (IMF) in its 'Cyprus- Selected Issues Report'³⁴ notes that in the aftermath of the financial crisis:

... although incoming cases did rise, the major factor in the high and growing backlog of court cases appears to be the low, and declining, clearance rate. At around 80 percent, the ratio of resolved court cases to incoming cases is well-below the 100 percent needed to prevent the backlog of cases from expanding. Cyprus's clearance rate is one of the lowest in the EU, and was low even prior to the crisis.

With regard to willingness to go to court, Eurobarometer 395³⁵ indicated that of all EU countries, citizens in Bulgaria (31%), Cyprus (35%) and Greece (36%) were least willing to go to court for claims under €2,000 (P 42). Equally the same survey indicated that respondents from Luxembourg (€933), Spain (€880) and Cyprus (€876) reported the highest monetary thresholds for going to court in their country over a disagreement or a dispute with a retailer, or provider of business transactions, located in their country.

Other Performance Measures

Although critical, efficiency in processing cases through the courts is not the only measure of performance of the courts. For example, the EU Justice Scoreboard also incorporates a number of qualitative measures. While Cyprus scores well on judicial independence, it scores poorly on a number of other measures. The 2017 Justice Scoreboard indicates that Cyprus is 4th from the bottom of the table in the provision of training to the judiciary. It also shows that serious deficiencies remain regarding availability of information and communication technologies in courts, both for case management and communication, and that a low proportion of judgments are accessible online to the public. It also shows that general government expenditure on the courts system is the lowest in the EU. The use of ICT for communications between members of the legal

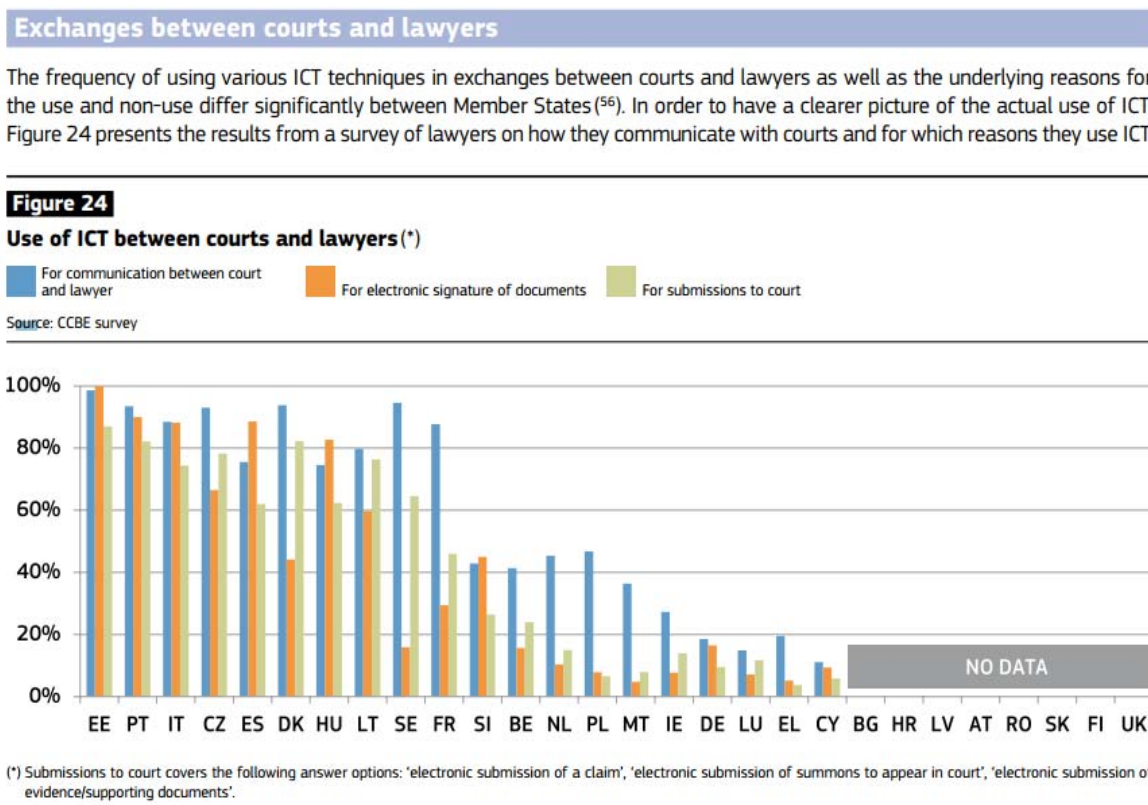
³³ European Commission Country Report Cyprus 2017 at p49.

³⁴ Cyprus Selected Issues Report (November 2017 by Seung Mo Choi, Sebastiaan Pompe, Nadia Rendak, and Rachel van Elkan) page 10.

³⁵ (P46) (Eurobarometer 395 'Small Claims Procedures', on behalf of European Commission 2013).

profession and the courts is limited and, according to the 2017 EU Justice Scoreboard, accounts for less than 10% of correspondence, as shown in the figure below.

Figure 5 – Use of ICT between Courts and Lawyers³⁶



In overall terms, although the Cypriot judicial system is regarded as highly independent, and the work of the judiciary and the court service generally is professional, albeit operating within significant constraints, including a comparatively low level of investment, performance overall in both quantitative and qualitative terms is poor when compared to the rest of the EU. While further investment is undoubtedly necessary, reform of the courts system is also critically dependent on the implementation of new and revised management structures, systems and procedures.

3.2 Judicial Systems in Selected Other Countries

In this section we present a brief review of court management, administration and judicial practice in a number of jurisdictions, namely England and Wales, New Zealand, and Ireland (all common law), and Malta (a mixed system, like Cyprus).³⁷ These countries have been selected because they have legal

³⁶ See EU Justice Scoreboard 2017.

³⁷ Malta can be classed as a 'mixed' legal system with roots in civil law but having absorbed many aspects of the common law tradition.

systems broadly aligned with that of Cyprus, and, in certain cases, there has been relatively recent experience of general reform of the courts system. We also, where relevant, include a short commentary on aspects of the French system, which is based on civil law. The specific topics reviewed are: models of court management and administration; the administrative process, including case management; supports to the judiciary; ICT and the use of courtroom technology; pre-action protocols, alternative dispute resolution and mediation; structures for appeals; and level of court fees.

It should be noted, however, that good practice in these and other aspects of courts reform can be found in a number of EU member states. Many innovative practices in areas such as ICT, communication with courts users, use of Alternative Dispute Resolution, and approaches to managing cases so as to avoid delays are referenced in the Quality of Public Administration: A Toolbox for Practitioners³⁸ report from the European Commission, which provides useful benchmarks for reform.

For reasons of practical comparison, and taking account of the state of readiness of the Cypriot court system for reform, we confine the following comparative analysis to the selected countries mentioned above.

3.2.1 Court Management and Administration

In this section we provide an overview of the governance structure and related arrangements for managing the courts system in these selected countries.

England and Wales

The Ministry of Justice is responsible for court management and administration in England and Wales, and for non-devolved matters in Scotland and Northern Ireland. Specifically, this is achieved through Her Majesty's Courts & Tribunals Service (HMCTS). HMCTS was created in 2011 as an executive agency of the Ministry of Justice (MoJ) and operates on the basis of a partnership between the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals. HMCTS is an executive agency and remains operationally independent. Responsibility for oversight of HMCTS rests with a Board, which is headed by an independent chair and made up of executive, non-executive and judicial members. The agency provides a system of support for the administration of the business of the courts

³⁸ Quality of Public Administration: A toolbox for practitioners, European Commission 2007: Theme 7 Quality of Justice Systems

in England and Wales and those tribunals for which the Lord Chancellor is responsible across England, Wales, Scotland and Northern Ireland.³⁹

The administration of the Supreme Court is the responsibility of a non-ministerial Department headed by a Chief Executive, a statutory office created by Section 48 of the Constitutional Reform Act 2005. The Chief Executive is not part of the Ministry of Justice and does not report to the Lord Chancellor. He carries out his functions in accordance with any directions given by the President of the Court, to whom he reports.

New Zealand

In New Zealand court administration is managed by the Ministry of Justice of New Zealand. There is judicial input by way of joint Ministry-judicial governance and management committees and councils. The Chief Justice, as the head of the New Zealand Judiciary, is the primary point of contact between the Executive and the Judiciary and liaises with the Government on policies or practices that impact upon judicial administration. The Supreme Court Act 2003 allows for administrative responsibilities for the Supreme Court to be placed in the hands of the Chief Justice, and through the Chief High Court Judge for the High Court. The President of the Court of Appeal is responsible for administrative responsibilities for the Court of Appeal, while the Chief District Court Judge is responsible for ensuring the business of District Courts.

Malta

The Ministry of Justice, as part of the Ministry of Justice, Culture and Local Government, is ultimately responsible for the administration of courts in this jurisdiction. This responsibility is delegated to the Director General (Courts), who is appointed by the Prime Minister. The Director General (Courts) is responsible for the management and administration of the courts of Justice Department, including the registries, archives and other services. The Director General is assisted by the Registrar, Civil Courts and Tribunals, the Registrar Criminal Courts and Tribunals, the Director General (Gozo Courts and Tribunals), and the Director (Support Services). All court executive officers performing duties in the courts of Justice Department take their instructions from, and are answerable to, the Director General (Courts).

³⁹ Her Majesties Courts and Tribunals Service: Business Plan 2014-15 at 1.1.

Ireland

The Courts Service in Ireland was established as an independent statutory body on 9th November, 1999 following the enactment of the Courts Service Act, 1998. Its statutory functions are to manage the courts; to provide support services for the judiciary; to provide information on the courts system to the public; to provide, manage and maintain court buildings, and to provide facilities for users of the courts.

The Service is governed by a Board including a chairperson (the Chief Justice or another judge of the Supreme Court chosen by him or her) and seventeen members. In accordance with the provisions of the Courts Act the majority of Board members are judges, with the remaining members being drawn from the legal, justice and business community. The Board is responsible for determining policies for the service, and for overseeing their implementation. It performs these functions directly and through the committees of the Board. The day-to-day operation of the Courts Service is the responsibility of a Chief Executive Officer who is also a member of the Board. In practice, the Board decides on policy matters and the Chief Executive Officer ensures their implementation.

The Irish Government funds the administration of the courts. The Courts Service is accountable to the Minister for Justice and Equality and, through the Minister, to the Government and to the Dáil (Parliament) Public Accounts Committee for money spent and value-for-money provisions. The Chief Executive is the Accounting Officer for the Courts Service.

It is important to note that the functions of the Courts Service do not include the administration of justice, nor is the Courts Service accountable for judicial decisions. Judges are totally independent when carrying out their judicial functions. They are employed directly by the State and not by the Courts Service. They act as members of the Courts Service Board or Committees of the Board in an administrative capacity.

France

Justice in France is administered by a ministry, also called the Chancellery, headed by the Minister of Justice. The ministry includes a General Secretariat, a General Inspectorate of Judicial Services and five directorates. The Judicial Services Directorate (DSJ) has responsibility for the organisation and operation of the civil and criminal courts. It is involved in the drafting of legal provisions in this area, and expresses opinions about draft legislation or regulations that may have an impact on the operation of the courts. Alongside the High Council for the Judiciary and the French National School

for the Judiciary, it is also responsible for the recruitment and management of judiciaries, of *juges de proximité* (judges dealing with small claims), and of the officials who work within the courts.

3.2.2 The Administrative Process, including Case Management

England and Wales

The Rules of Civil Procedure in England and Wales (CPR) ensure that the court has the primary responsibility for pre-trial case management.⁴⁰ The Rules state that the court should maintain active case management through, for example, encouraging cooperation of the parties in the conduct of proceedings, identifying issues at an early stage, deciding the order in which proceedings should be resolved, fixing timetables and controlling the progress of each case, and giving directions to ensure that the trial of a case proceeds quickly and efficiently.⁴¹

To successfully achieve these aims, the CPR have two key features – track allocation and active case management. Track allocation depends on the size and complexity of each case. A ‘small claims track’ covers low value county court cases (for example, claims up to the value of 10,000 pounds); a ‘fast track’ procedure also covers county court cases of moderate value (between 10,000 and 25,000 pounds); and a ‘multi-track’ procedure, in the county and high court, for more complex cases.⁴² Part 29 of the CPR contains general provisions about cases allocated to the multi-track system. For example, Part 29.3 allows for a judge-led case management conference and / or pre-trial review of the issues. All parties and their legal representatives are expected to attend. Case management will generally be dealt with by: a Master, in cases proceeding in the Royal Courts of Justice; a District judge, in cases proceeding in a District Registry of the High Court; and a District Judge or a Circuit Judge, in cases proceeding in a county court. A Master or a District Judge may consult and seek the directions of a judge of a higher level about any aspect of case management, while the member of the court staff who is dealing with the listing of a hearing may seek the directions of any judge about any aspect of that listing.⁴³

At a case management conference the court will review the steps which the parties have taken in the preparation of the case, and in particular their compliance with any directions that the court may have given; decide and give directions about the steps which are to be taken to secure the progress of the claim in accordance with the overriding objective; and ensure as far as it can that all agreements that

⁴⁰ Rules of Civil Procedure 1998 S.1.4 (1).

⁴¹ *Ibid.* at 1.4 (2).

⁴² Martin Partington, *Introduction to the English Legal System* (Oxford: Oxford University Press, 2017) at 210.

⁴³ See Part 29 CPR, at 3.10.

can be reached between the parties about the matters in issue and the conduct of the claim are made and recorded.⁴⁴

In both criminal and civil lower courts, cases are allocated randomly to whichever judge or magistrate is sitting on that particular day. Apart from cases where particular expertise might be required, the system of allocation is entirely random and governed by the availability of time in the diary of the particular court. In the High Court or Crown Court, it is for the Listing Officer (who is a member of the court staff), acting under the direction of the senior judge of that court or his authorised nominee, to decide which cases individual judges should be asked to hear.

Minor offending in this jurisdiction is managed by way of the Magistrates' Court. Cases are heard without a jury by three magistrate judges or one district judge. Minor cases of this type are called 'summary offences' and can include most motoring offences, minor criminal damage and public order offences.⁴⁵ Each summary offence is specified by statute.

New Zealand

In this jurisdiction, pre-trial case management can be carried out in both an administrative and a judicial capacity. For example, the Arbitrators' and Mediators' Institute of New Zealand (AMINZ) manages a wide range of disputes through a process of dispute resolution, as allowed for under the Arbitration Act 1996 (as amended). It includes mediators, adjudicators, conciliators and investigators and expert witness from the public and private sectors.

Legislation allows for case management guidelines depending on the relevant court and case. For example, the High Court Rules 2016 outlines case management procedures within that court.⁴⁶ It allows for pre-trial conference reviews and conferences depending on whether the case is defined as a 'complex defended proceeding' or an 'ordinary defended proceeding'. These conferences are used to manage a wide range of civil cases. An issues conference will help the judge to decide what issues need to be resolved and whether to hold a settlement conference or go straight to a hearing. Under Part 7.3 of the District Court Rules 2014 and (as noted above) Part 7 of the High Court Rules 2016, there is an opportunity for pre-trial case management by way of a Judicial Settlement Conference. For example, Rule 7.79 of the High Court Rules provides that the purpose behind the making of an order for a judicial settlement conference is to assist the parties in their negotiation of a settlement of the

⁴⁴ Ibid. at 5.1.

⁴⁵ Criminal Procedure Rules 2010, Part 37.

⁴⁶ Part 7, ss1.

proceeding, or of any of the issues in the proceeding. The judges' role is one of assisting the parties in those negotiations. An order may follow then, if agreement exists, directing the parties to settle their dispute by mediation, arbitration or other alternative dispute mechanism.

In family law and environmental cases, there are 'track' procedures similar to civil law cases in England and Wales. For example, in an environmental law case, there is a 'standard' track, a 'priority' track and a 'parties on hold track'. The 'standard' track includes most non-urgent and other miscellaneous proceedings. The Court will typically issue standard directions to the parties, with an emphasis on avoiding unnecessary court appearances at the interlocutory stage, and a hearing within six months of commencement.

The 'priority' track is for more urgent cases such as urgent enforcement proceedings and appeals that the Court considers require priority resolution, or matters for which more intense case management is required. The 'parties on hold' track involves cases where parties advise that they are not actively seeking a hearing so they can (for example) negotiate or mediate.⁴⁷

Case allocation to New Zealand High Courts is managed by the High Court registries at Auckland, Christchurch and Wellington. However, the essential features of case allocation in all registries, as identified by Butler, are 'to identify the issues in dispute, to encourage settlement by alternative dispute resolution, and, if that is not possible, to plan together with the parties the course of the proceedings, including setting a firm date for the final hearing within a reasonable time after the commencement of the proceedings'.⁴⁸

Generally, all civil cases are assigned by the registrar to one of three management tracks—Immediate Track, the Swift Track, and the Standard Track—and, where the registry operates a master calendar, the Assigned Track. These tracks are explained by Butler:

The Swift Track is for cases that need to come to a hearing quickly, including, for example, civil appeals, cases for judicial review, and cases for writs of habeas corpus. The Standard Track is for all other generally non-urgent cases, and the Assigned Track is for cases that require judicial management greater than that required for cases on the Standard Track—for example, if the

⁴⁷ Environment Court of New Zealand: Overview of the Environment's Court Processes.

⁴⁸ Petra Butler. 'The Assignment of Cases to Judges'. *New Zealand Journal of Private and International Law* (Volume 1: No. 1) 2003 83, at 94.

trial is likely to take more than five days or there are three or more separately represented parties.⁴⁹

Criminal offences are now split into four specific categories and previous distinctions to ‘summary’ and indictable’ offences, as is still the categorisation in England and Wales, have been abolished. There is also a subset of criminal offences called infringement offences. These include common traffic offences such as parking offences and most speeding offences. For these an “infringement notice” is given whereby a fine has to be paid (for example, a speeding ticket, a parking ticket, or notice of a lower-level breach of the breath- or blood-alcohol limits). You only have to go to court if you want to challenge the notice. Infringement offences do not result in a criminal record.⁵⁰

Malta

Pre-trial case management in Malta allows for judges, after the written pleadings have been concluded, to give an order as may be conducive to the proper conduct of the pre-trial or trial hearing. Pre-trial hearings can be appointed not later than two months after the conclusion of the written pleadings. The actual hearing is presided over by a judge or a judicial assistant acting under the guidance and directives of the judge. Factual and legal issues in the respective case are identified and the possibility of an agreed settlement or application for a conciliation and mediation process are explored further. The pre-trial procedure does not apply to all courts. It does not apply to the Civil Court (Family Section), the Court of Magistrates (Malta) or to the Court of Magistrates (Gozo) in its inferior division.⁵¹

Pre-trial hearings are allowed for under Chapter 12 of the Code of Organisation and Civil procedure and under subsidiary legislation, namely the Court Practice and Procedure and Good Order Rules.⁵² They are held in open court, although hearings and decrees or orders of the Judge or judicial assistant may be held or given in camera.⁵³ The Judge or judicial assistant can refer the parties to a mediation or conciliation process if they deem fit that the cause is susceptible to a mediated agreement and that the parties have shown their willingness to attempt such conciliation, or to arbitration if the parties have requested this form. The pre-trial hearing of the cause should then be resumed not later than three weeks after either party has informed the court in writing that the conciliation or mediation

⁴⁹ Ibid.

⁵⁰ Summary Proceedings Act 1957, s.21.

⁵¹ Ministry for Justice, Culture and Local Government. Courts of Justice-The Pre-Trial System. Available at <https://justice.gov.mt/en/justice/Pages/Courts-of-Justice.aspx>.

⁵² S.I. 12/09 (2009) Part IV.

⁵³ Ibid. Part IV. 13 (8).

process has not succeeded, and shall be resumed in any case not later than three months from the date on which the parties were referred to the mediation or conciliation.⁵⁴

In Malta a number of judges and magistrates can sit on both civil and criminal courts. Bando, Aquilino *et al* note that judges and magistrates within this jurisdiction can be members of a number of both civil and criminal courts simultaneously.⁵⁵

The Chief Justice of Malta, appointed by the President acting on the advice of the Prime Minister, also has responsibility for allocating judicial functions. He will recommend to the Minister responsible for justice the allocation of judges and magistrates between the courts and, the Minister, in advising the President of Malta as to the assignment of duties of Judges and Magistrates, “shall...act in accordance with any recommendation on the matter by the Chief Justice” (Article 101A(13) of the Constitution).

The Court of Magistrates manages minor criminal offending in this jurisdiction.⁵⁶ More minor infringements in this jurisdiction, such as minor traffic offences, illegal disposal of litter, etc., are penalised and heard in Local Tribunals by Commissioners of Justice situated in various localities. These Commissioners are selected from among persons holding a law degree and are given a three-year appointment. Appeals are only possible on points of law and, as the offences have been de-penalised, the case may be decided in the absence of the accused. Guilty verdicts will usually result in a fine.

Ireland

Case management in Ireland varies depending on the jurisdiction of the court. Given the €15,000 civil jurisdiction of the District Court, its case management requirements are not as complex as those of the High Court, which has unlimited jurisdiction. Nonetheless, a case management questionnaire must be completed by the parties, indicating matters such as estimated duration of a case and requesting information on expert witnesses.

In the Circuit Court a County Registrar, a quasi-judicial figure, manages cases through a process known as case progression. Essentially, the County Registrar ensures that only the net issues in dispute between the parties end up before a judge. In this court, and others, cases that are not progressing through the administrative system are brought to the attention of the President. Plaintiffs are then

⁵⁴ Ibid. Part IV. 13 (11).

⁵⁵ B. Ando, K. Aquilina, J. Scerri-Diacono and D. Zammit. ‘Malta’. In V. Palmer (Ed.) *Mixed Jurisdictions Worldwide: The Third Legal Family* (528-576) (Cambridge: Cambridge University Press, 2012) at 536.

⁵⁶ Chapter 9 of the Maltese Criminal Code outlines criminal procedures.

called to court to explain the cause of the delay, with reasons deemed to be unacceptable often resulting in the case being struck out from the court list.

The High Court features a combination of pre-trial requirements, such as requiring a certificate of readiness stating that the case is ready to proceed, as well as allowing the judge to refer a case to mediation or arbitration, should the parties consent. In 2016 ⁵⁷rules requiring parties to exchange expert reports 30 days in advance of trial and allowing for the option of retaining a single joint expert were introduced. A comprehensive practice direction on the conduct of proceedings in the Supreme Court was issued by the Chief Justice in October 2014.

The Irish Government's Programme for Government 2016 contained a commitment to propose legislation to reduce excessive delays to trials and court proceedings, including pre-trial hearings. It went on to pledge an annual study on court efficiency and sitting times, benchmarked against international standards, to provide accurate measurements for improving access to justice. Arising from that commitment, a group was established to review the administration of civil justice under the chairmanship of the President of the High Court.

The aim of the review is to examine the current administration of civil justice in the State with a view to improving access to justice, reducing the cost of litigation, improving procedures and practices so as to ensure timely hearings, removing unnecessary rules and encouraging alternative methods of dispute resolution. The review group will also consider the greater use of technology in processing cases. Submissions on these issues, and others, have been sought by the group from all stakeholders by the 16th of February 2018.

3.2.3 Supports to the Judiciary

England and Wales

The Judicial Research Office (JRO) is staffed by Judicial Assistants, and provides research assistance to the judiciary in all jurisdictions. Tasks assigned to this office include research for judges, preparation of material for publication on the judges' intranet, preparation and updating of handbooks for all court jurisdictions, and proof-reading of judgments and other documents. The Judicial Research Office also maintains a database of research materials.

⁵⁷ S.I. No. 254 of 2016: Rules of the Superior Courts (Conduct of Trials) 2016

Judicial assistants are also assigned to judges of the various court jurisdictions, and combine the role of judicial assistant with that of the traditional tipstaff. Judges appointed after 2011 are assigned an individual judicial assistant rather than a tipstaff. These judicial assistants assist the judge in preparing for court, conduct the judge to court, and assist the judge as required. They also research points of law, prepare drafts of judgments, and proof-read completed judgments prior to delivery and publication. A further group of judicial assistants are assigned to support the work of the Supreme Court, Court of Appeal, and High Court.

A Judicial Support Unit provides a 'one-stop shop' for issues of concern to all judges. Areas managed by the Unit include judicial travel (both domestic and foreign), validation of travel claims, payment processing for judicial attire, protocol arrangements and liaison as appropriate between the judiciary and other sections of the Service, and international visits.

In terms of judicial training, the Judicial College (formerly the Judicial Studies Board) delivers training for approximately 30,000 judges, magistrates and independent legal advisors. It provides, for example, online courses through the Learning Management System supporting the provision of digital materials and e-learning. Training also includes understanding social and diversity issues as well as cross-jurisdictional support for case management and judgment writing.⁵⁸

The Judicial Library and Information Service, as part of the Judicial Office, offers a central legal and enquiry service. For example, in 2016 the Service provided over 30,000 print publications and a large collection of online legal information, as well as dealing with over 2,500 research requests.⁵⁹

New Zealand

Judges are directly supported by associates (who provide secretarial and court reporting services) and clerks (who provide research assistance). The Ministry of Justice provides registry and administrative services, such as transcription services, finance, ICT, human resources and funding and support for the Institute of Judicial Studies. The Chief Justice, President, and Chief High Court Judge also have a small staff to assist with their administrative roles. Although they are formally employed by the Ministry of Justice, these staff also work to the judges under protocols which preserve judicial independence.

⁵⁸ Judiciary of England and Wales: The Lord Chief Justice's Report. 2016. Available at <https://www.judiciary.gov.uk/wp-content/uploads/2016/11/lcj-report-2016-final-web.pdf>.

⁵⁹ Judiciary of England and Wales: The Lord Chief Justice's Report. 2017. Available at <https://www.judiciary.gov.uk/wp-content/uploads/2017/09/lcj-report-2017-final.pdf>.

The Institute of Judicial Studies, established in July 1998, assists with the professional development of judges. The Judicial Libraries Management Board oversees and manages the development of information and library services. Its functions include determining a strategic plan for the development of judicial information services. The Ministry has two official conduits for communication with the judiciary, the Judicial Office for Senior Courts and the Courts Consultative Committee, and regularly seeks judicial input into its operational changes that impact the court, such as improvements to court processes and service design.⁶⁰

Malta

Each member of the Maltese judiciary has a staff team. Members of the judiciary are responsible for their own team in so far it relates to the work assigned to that Judge or Magistrate, while the Registrar and the Director General (Courts Division) retains control over the members of the team in connection with matters of discipline and, as deemed necessary, temporary transfer to assist another member of the judiciary.

The Maltese Judicial Studies Committee, established in 2003, is the body responsible for judicial training of Maltese magistrates and judges. Through organising courses and seminars, it assists with skills training and professional development. Its objectives include identifying training needs for judiciary members, organising lectures, seminars and courses, informing members of recent legal developments and issuing updated papers on aspects of judicial work. The Committee also facilitates the participation of the judiciary in training events outside the jurisdiction. The Committee is composed of four members, two appointed by the Chief Justice and two members appointed by the Justice Minister and acts under the general direction of the Chief Justice.

Ireland

The Judicial Support Unit of the Irish Courts Service manages many of the supports provided to the judiciary such as validation of travel claims, payment for judicial clothing and protocol arrangements. Continuing education for the judiciary is facilitated by the Committee for Judicial Studies, which organises annual conferences for judges of each jurisdiction. The committee nominates judges to attend international conferences on relevant legal topics, and some bench books and training in information and communications technology are also provided. The Judicial Studies Journal is also

⁶⁰ New Zealand Ministry of Justice: Annual Report. July 2016-june 2017.

published, usually twice a year, under the auspices of the Judicial Studies Committee and is provided free to all judges.

Apart from District Judges, all judges are assigned judicial assistants who provide research and support services to the judiciary. Judicial assistants are law graduates employed on a three-year fixed term contract basis to undertake legal research. They work either in shared research units or are assigned to individual judges. Judicial assistants also have some court-going duties.

The Courts Service provides a legal library for the use of the judiciary, which is managed by a professional librarian. Each member of the judiciary is provided with a laptop computer providing remote access to the courts ICT system.

3.2.4 ICT and the Use of Courtroom Technology

England and Wales

There has been a major push towards ICT-enabled processes as part of the reform of the courts system. According to the Annual Report for 2016/2017, the Crown Courts now operate a Digital Case System for all CPS prosecutions and rapid progress is being made on extending the system to all prosecutions. This has meant that the management of cases takes place without the need for paper, and pre-trial cases and directions are made online.

From a civil law perspective, HM Courts and Tribunal Service runs Money Online, which enables personal actions for debt to be brought via the internet. Divorce cases can be agreed and processed online through the DivorceBox.com service. Possession Claim Online also allows for certain possession claims to be started online, and fines can generally be paid online. The Social Security and Child Support Tribunal will allow parties to resolve their disputes online using a digital end-to-end service where parties and judges will be able to view evidence online through a Continuous Online Hearing.

A digital case file will allow users to track and monitor their case through “Track My Appeal” and access reliable signposting and guidance. Parties will be able to see the grounds of a dispute and further evidence through digital evidence sharing.⁶¹ Other online projects allow for people to apply for grants of probate, lodge tax appeals online with the First Tier Online Project and resolve money claims online using a largely automated system for claims under £25k and a streamlined digital pathway for all other

⁶¹ Judiciary of England and Wales: The Lord Chief Justice’s Report. 2017, at 7/8.

civil money claims.⁶² There is also an Open Justice internet micro-site that allows the public to access local crime maps and local court performance information.⁶³

The introduction of an Online Court, without the need for any physical courtroom attendance, has been mooted as a key element of the ongoing reform of the UK judicial system. The development of an Online Court for the settlement of civil claims up to £25,000 formed one of the key recommendations of the report by Lord Briggs on the Civil Courts Structure Review (July 2016). The Online Court project offers a radically new and different procedural and cultural approach to the resolution of civil disputes which, if successful, may pave the way for fundamental changes in the conduct of civil litigation over much wider ground than is currently contemplated by its first stage ambition, to resolve money claims up to £25,000 subject to substantial exclusions.

Video conferencing and Digital Audio recording facilities are also used extensively in courtrooms.

The Supreme Court (formerly House of Lords) has placed all their judgments since November 1996 online free of charge on the BAILII (British and Irish Legal Information Institute) website.⁶⁴ Judgments from the Civil and Criminal Divisions of the Court of Appeal and from the Administrative Court, selected by the judge concerned, are also available for free on the BAILII website.

New Zealand

The Courts (Remote Participation) Act 2010 allows for audio visual link technology (AVL) to be used in some criminal and civil court proceedings and for links between the courts and custody facilities. The Ministry of Justice's Annual Report has noted how legislation has helped to facilitate and support the increased use of AVL in New Zealand courtrooms. From 1 March 2017, AVL must be used for procedural appearances in the criminal jurisdiction where a defendant is in custody and the technology is available, unless a judicial officer or registrar determines that use of AVL is contrary to the interest of justice.⁶⁵

For civil cases, the High Court, Court of Appeal and Supreme Court now provide counsel with the opportunity to use electronic casebooks rather than in paper form, and counsel are encouraged to file their submissions and bundles in electronic form.⁶⁶ In 2016, a text message service was initiated to

⁶² Ibid.

⁶³ The Judicial Office: *The Judicial System of England and Wales: A Visitors Guide* (2016) at 28.

⁶⁴ Martin Partington, *Introduction to the English Legal System* (Oxford: Oxford University Press, 2017) at 52.

⁶⁵ New Zealand Ministry of Justice Annual Report 2017 at 18.

⁶⁶ New Zealand Ministry of Justice: Senior Courts: Civil Electronic Document Protocol: Revision 3-22 May 2017...

remind people of their court appointments. Criminal defendants in the District Court were the first participants of this service, which has subsequently been extended to dispute tribunal users. There is also the possibility of online filing of police charges and corrections pre-sentencing reports.

The 'Judicial Services Online' facility provides a searchable database of judgments and decisions of New Zealand courts. Decisions of particular public interest may be published on the 'Judgments of Public Interest' website but no earlier than three days after the decisions are given. All decisions from the Supreme Court, from the Court of Appeal (from 2003) and from High Court case (from 2005) are available. The 'District Court Online' website was launched in 2016 and is an initiative from the office of the Chief District Court Judge and provides for the publication of judicial decisions from this particular court. Each court has their own dedicated website where judgments and reports are published. The Ministry of Justice for New Zealand provides annual reports and statistical information.

Malta

In Malta, similar to proceedings in New Zealand, a text messaging service allows for prior notification of upcoming and deferred case sittings. For example, lawyers and parties can be advised on court sittings deferrals via text message. Any orders given in the Criminal Court, Court of Criminal Appeal, Court of Magistrates, First Hall of the Civil Court and the Small Claims Tribunal are now automatically sent to the attorney of the parties by email, thus ensuring that lawyers know the outcome of their case in real time. Transcripts of witness statements are now sent by email to lawyers as soon as it is transcribed.⁶⁷ Fines can also be paid online as part of the government's e-courts initiative.

With regard to user information in Malta, 'Sentenzi Online' (Judgements Online) is one of the services that falls under the e-Government initiative. The 'Sentenzi Online' service offers a judgements archive from 2001 onwards, up to judgments from the previous 15 days.

In line with the other jurisdictions studied, audio-visual equipment is available in Malta courts. Video conferences have been used in civil courts in relation to family matters where minors requiring protection have been involved. It can be used to take evidence in criminal courts as a matter of last resort.

⁶⁷ Ministry for Justice, Culture and Local Government. Malta. National Justice Reform 2015 at 6.

Ireland

In Ireland each courtroom is wired for digital audio recording (DAR), enabling speedy production of transcripts and instant playback of proceedings if required. All newly constructed courtrooms are wired with data points as part of the standard courtroom specification. Video-link facilities are in place in several courtrooms, allowing for evidence to be given remotely by vulnerable witnesses and remand hearings to be conducted without the necessity for the defendant to be present in court.

Forms, procedural guidelines, and practice directions for all aspects of work performed by the courts are available on the Courts Service website, as are the rules of court and all official publications of the service, such as annual reports. The Legal Diary, a schedule of the business of the Superior Courts, is published daily on the website. Judgements of the Supreme Court, Court of Appeal, and High Court are available on the Courts Service website

Criminal complaints are received electronically from An Garda Síochána (the Irish Police Force). Criminal case results are entered directly in court onto the Criminal Case Tracking System (CCTS), a computerised case tracking and management system that generates any necessary orders or warrants as well as issuing relevant penalty notices. Financial penalties may be paid online, as can maintenance payments in family law cases. Certain civil proceedings, such as small claims (those with a monetary limit of €2,000), may be initiated online, although the majority of civil proceedings are still made by lodging the initiating claim in the relevant court office.

3.2.5 Pre-Action Protocols, Alternative Dispute Resolution, and Mediation

England and Wales

Within this jurisdiction pre-action protocols exist and are approved by the Master of the Rolls and are annexed to the Rules of Civil Procedure 1998. These protocols can be found within the management of disputes ranging from personal injury, defamation, professional negligence, and judicial review, to possession claims for mortgage arrears and low value personal injury road traffic accident, and low value personal injury employers' and public liability claims.⁶⁸

Where there has been no formal pre-action protocol approved, a Practice Direction will then apply to disputes. This Practice Direction states that litigation should be a last resort and that parties should consider whether negotiation or some other form of Alternative Dispute Resolution (ADR) might

⁶⁸ Ministry of Justice: CPR – Pre-Action Protocols. Available at <https://www.justice.gov.uk/courts/procedure-rules/civil/protocol>.

enable a settlement to the dispute without commencing court proceedings.⁶⁹ Forms of ADR in England and Wales can include mediation, arbitration, early neutral evaluation (wherein a third party will give an informed opinion on a dispute), and Ombudsmen schemes.

Arbitration in this jurisdiction, similar to the legislative provisions in Malta (see below), is provided for in legislation under the Arbitration Act 1996. However, unlike the case in Malta, there is no Mediation Act. Arbitration will ordinarily occur in commercial disputes where a contract contains an arbitration clause and when the parties to a dispute involuntarily agree to invoke an arbitrator once that dispute arises.⁷⁰ Any decisions made by an arbitrator are normally binding, unlike decisions made during mediation, and the courts will rarely interfere with decisions made.⁷¹

In the case where a dispute does proceed to litigation, the court will expect the parties to have complied with a relevant pre-action protocol, or the Practice Direction itself. Thus, these protocols might be classed as semi-mandatory, and the court will take into account non-compliance when giving directions for the management of proceedings,⁷² and when making orders for costs.⁷³ In family law cases, a Mediation, Information and Assessment meeting (MIAM) must be held before a court order can be issued.⁷⁴

New Zealand

Within this jurisdiction there is no equivalent of the pre-action protocols in evidence in England and Wales. The main methods of alternative dispute resolution are negotiation, mediation, judicial settlement conferences, arbitration and expert determination.⁷⁵ Rules for arbitration can be found in statute within the Arbitration Act 1996 and the Arbitration Amendment Act 2007.

However, Alternative Dispute Resolution (ADR) has been promoted as encouraging early civil case settlement and delivering consequent benefits to both the courts and disputants. Since 2000, the judiciary has increasingly encouraged parties to consider ADR in the course of the case management process outlined in the relevant practice notes/ rules for the District Court and High Court jurisdictions. Although used in a wide variety of civil disputes including property, environmental and property and

⁶⁹ Ministry of Justice Practice Direction - Pre-Action Conduct and protocols. Available at www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_pre-action_conduct.

⁷⁰ Alisdair Gillespie. *The English Legal System* (5th Edition). (Oxford University Press: Oxford: 2015) at 571.

⁷¹ Ibid.

⁷² Rules of Civil Procedure 1998: S. 3.1 ss. (4) TO (6)

⁷³ Ibid. at 44.3 (5) (a).

⁷⁴ Section 10(1) of the Children and Families Act 2014.

⁷⁵ Andrew Horrocks. *Commercial Litigation: Jurisdictional Comparisons*. (Sweet and Maxwell, 2011).

tenancy disputes, the predominant areas resolved using ADR have traditionally been commercial contracts, building and construction disputes and employment.⁷⁶ In a similar way to England and Wales, dispute resolution is especially visible in specialist courts managing family and environmental disputes. A Family Dispute Resolution process within the Family Court has introduced an outsourced de facto mandatory mediation for childcare disputes, while the Environmental Court has the power to arrange mediation and other ADR methods within its case management, although both parties must consent to the procedure.⁷⁷

In New Zealand negotiation and mediation can be attempted at any stage in the life of a claim and often take place in parallel with the claim being advanced in the courts. Judicial settlement conferences, convened by judges, are offered as a part of ADR within both the District and High Courts. Horrocks describes these conferences as ‘a confidential, without prejudice, conference for the parties to judge the merits of the claim and explore whether a settlement can be achieved’.⁷⁸ In general, there are no sanctions for parties who fail to use ADR. However, in common with England and Wales, and Malta, if it is ordered by the court and parties fail to engage, then adverse costs consequence can result.

Malta

In contrast to England and Wales, there are no pre-action protocols as such in Malta. The two main forms of Alternative Dispute Resolution in this jurisdiction are mediation and arbitration. The form and method of both can be found in a number of legislative provisions. The Mediation Act 2004 (as amended) states that parties may resort to mediation in a number of ways; either on a voluntary basis, following a decree of order from a court or other adjudicating authority, or by law.⁷⁹ The government body responsible for mediation is the Malta Mediation Centre, established under Chapter 474 of the Mediation Act 2004, which provides a forum for mediating disputes and a list of accredited mediators. Mediation is admissible in disputes involving civil, family, social, commercial and industrial matters. Whilst it is mostly managed on a voluntary basis, mediations within family law disputes are mandatory.

The 2004 Act also makes provision for semi-mandatory mediation. For example, Article 17 (2) and 18 (2)(b) stipulate that mediation proceedings may (not ‘shall’) be resorted to by the parties following a decree or order by the court, and where it considers it appropriate that the dispute may be resolved

⁷⁶ K. Saville-Smith and R. Fraser. ‘Alternative Dispute Resolution. General Civil Cases’. Centre for Research Evaluation and Social Assessment. Ministry of Justice (2004) at page 14.

⁷⁷ Resource Management Act 1991, Section 268.

⁷⁸ Andrew Horrocks. *Commercial Litigation: Jurisdictional Comparisons*. (Sweet and Maxwell, 2011) at page 243.

⁷⁹ Mediation Act 2004 (Chapter 474) Part IV S. 17.

through the assistance of a mediator. Furthermore, Article 223(6) of the Code of Organisation and Civil Procedure states that when a party without just cause refuses or fails to participate before, or collaborate with, a mediator the Court may award double costs due to such a refusal or failure.⁸⁰

Of general relevance is Directive 2008/52/EC on certain aspects of mediation in civil and commercial courts, introduced by the European Parliament on 21 May 2008.⁸¹ While applying only to voluntary mediation within Member States, Article 5(2) makes it clear that the Directive is without prejudice to national legislation making the use of mediation compulsory or subject to incentives or sanctions provided that the parties are not prevented from exercising their right of access to court. As regards the principle of confidentiality within mediation proceedings as set out in Article 7 of the Directive, this is protected in all Member States. Malta, however, alongside other Member States, has gone beyond the requirements of the Directive and introduced stricter rules. For example, in Malta mediators must keep confidential whether an agreement has been reached during mediation proceedings. Further, information may only be divulged if the parties expressly agree to it in writing.⁸²

Arbitration is the other predominant method of alternative dispute resolution in this jurisdiction. The Arbitration Act 1996 substituted the out of date provisions within the Maltese Civil Code, which only addressed domestic arbitration.⁸³ Now, both domestic and international commercial arbitration is provided for within the 1996 Act.

Ireland

In Ireland all claims for personal injuries must first be lodged with the Personal Injuries Assessment Board (PIAB),⁸⁴ which operates a paper-based claims assessment system. Should either of the parties reject PIAB's assessment then the claim may proceed to the relevant court. PIAB has assessed more than 100,000 cases since it was established in 2004, and over 60 per cent of claimants have accepted its assessments. The average time to assess in 2016 was 7.1 months, and the average delivery cost was 6.4% of awards.

⁸⁰ The Code of Organisation and Civil Procedure, Chapter 12. This Code, originally enacted by Ordinance IV of 1854, was promulgated by Proclamation No. VI of the 1st of May, 1855.

⁸¹ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters at 3.8. The UK also adopted the Directive within the timeframe.

⁸² Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Brussels, 26/08/2016. COM (2016) 542, at page 10.

⁸³ The Arbitration Act 1996 Chapter 387.

⁸⁴ www.piab.ie

Many types of dispute are dealt with outside the judicial system through commissions, regulators, ombudsmen and such like. Examples include the Residential Tenancies Board (RTB),⁸⁵ established in 2004 on foot of the Residential Tenancies Act (RTA). The RTB is an agency of Government with statutory powers. A central role of the RTB is to resolve cheaply and speedily disputes between landlords and tenants, affording protection to both parties without having to resort to the courts. The Labour Court operates as an industrial relations tribunal, hearing all parties to a dispute and then issuing a Recommendation, which sets out its opinion on the dispute and the terms on which it should be settled.

In 2002 the Residential Institutions Redress Board⁸⁶ was established in Ireland as a statutory quasi-judicial body to provide redress to those children who suffered abuse in certain circumstances. While not mandatory, the Board has finalised more than 16,000 applications, in excess of 15,000 of which resulted in awards totalling almost €1 billion. Had the Board not been in existence these cases would have had to go to court, resulting in significant delays to the court schedules. A notable aspect of the redress scheme was the fact that the burden of proof to qualify for an award was lower than that applying in the civil courts.

The Law Reform Commission, in its 2010 report *Alternative Dispute Resolution: Mediation and Conciliation*,⁸⁷ noted that the courts encourage the use of pre-trial alternative dispute resolution in appropriate cases. Rules of Court, practice directions and primary legislation (Section 30 Arbitration Act 2010) allow for the courts to refer cases to mediation and arbitration but only in the event that the parties agree. The arbitration process in Ireland is governed by the 2010 Act.

Unlike the United Kingdom and New Zealand, no court annexed mediation scheme exists in Ireland. While the Law Reform Commission has recommended the establishment of such a scheme in the Circuit Court, no such initiative has yet been undertaken. A mediation service is, however, offered to family law applicants in Dublin District Court. This service is operated on a pilot basis and applicants are not obliged to participate.

France

There are three main ADR methods used in France. These are conciliation, mediation, and arbitration. Conciliation, under French law, can be used by parties under their own initiative or on that of the judge

⁸⁵ www.rtb.ie

⁸⁶ www.rirb.ie

⁸⁷ at www.lawreform.ie

during proceedings. Commercial courts require attempts at conciliation, conducted either by a judge or a conciliator, before the start of any proceedings.

Parties may refer a matter to a mediation in any area of law providing that the mediation does not undermine rules of public policy governing social and economic conduct. For example, it will not be possible to conclude a mediation agreement in order to circumvent mandatory rules on marriage or divorce. It can be either court ordered or held within contract. Court ordered mediation has a three-month timeframe for agreement. Family cases make up the majority of cases where mediation can be used, and in small claims cases before the local or district court.⁸⁸

Arbitration, which mainly arises in commercial cases, can be classed as a contractual dispute resolution mechanism based on consent. The parties must have agreed to arbitrate their disputes, either by inserting an arbitration agreement in their contract or in a separate document. They can also decide to use arbitration after a dispute has arisen. After agreement that the dispute should be solved exclusively by way of arbitration, the parties cannot go to the courts. French courts must decline jurisdiction when a party invokes the existence of an arbitration agreement, except when the arbitration agreement is manifestly void or manifestly inapplicable.⁸⁹

3.2.6 Structure for Appeals

England and Wales

There are different procedures for first appeals and second appeals in England and Wales. For first appeals, the general rule is that an appeal will be heard by the next level of judge. For example, an appeal against a decision of a district judge in the County Court will be heard by the circuit judge in the County Court, and an appeal against a decision of a judge of the High Court will be dealt with by the Court of Appeal (Civil Division). In all civil cases, and in family cases in the Court of Appeal, permission is required for all appeals except appeals against a committal order, a refusal of habeas corpus, or a secure accommodation order under section 25 of the Children Act 1989.⁹⁰

Prescribed time limits exist for appellant's wishing to file Notice in the Court of Appeal. The time limits vary depending upon the type of appeal that is being brought. However, in most cases the time limit

⁸⁸ See 'Mediation in Member States – France': https://e-justice.europa.eu/content_mediation_in_member_states-64-en.do

⁸⁹ Article 144 CCP

⁹⁰ Rules of Civil Procedure. S.52 (3) (1).

is 21 days from the date the lower court made the decision being appealed. For Upper Tribunal decisions, the time limit increases to 28 days.⁹¹

The test for granting leave for first appeals is set out in the Rules of Civil Procedure.⁹² Leave to appeal is usually dealt with purely on papers. Any order giving permission to appeal may also be made subject to conditions with possible limits placed on the issues to be heard. With regard to second appeals, permission is required from the Court of Appeal. Permission will only be given if it is considered that the appeal has a real prospect of success, raises an important point of principle or practice, or that some other compelling reason exists for the Court of Appeal to hear it.⁹³

New Zealand

The High Court is New Zealand's only court of general jurisdiction. It is the highest court in New Zealand that is able to hear cases at 'first instance', before any appeals. It also hears appeals from a number of other courts and tribunals, such as the District Court and Family Court. Part 20 of the High Court Rules 2016 outline the procedural requirements for leave to appeal to the High Court. The Court of Appeal, as the third tier of the court structure, supervises through appeal the judgments of the High Court and ensures consistency in application of the law in the High Court.

The Supreme Court will find it necessary in the interests of justice to hear and determine a proposed appeal if that appeal involves a matter of general public importance; if a substantial miscarriage of justice may have occurred, or may occur, unless the appeal is heard; if the appeal involves a matter of general commercial significance; or if the appeal involves a significant issue relating to the Treaty of Waitangi.⁹⁴ In general, the court will only hear appeals coming from the Court of Appeal.

Malta

In Malta the courts of civil jurisdiction, in order of hierarchy, are the Constitutional Court, the Court of Appeal (superior jurisdiction and inferior jurisdiction) and the Civil Court (Civil Court, First Hall; Civil Court, Family Jurisdiction; Civil Court, Voluntary Jurisdiction) and the Court of Magistrates. Malta resembles Cyprus in that it has only a one-tier system of appeal, with the Court of Appeal being the final appellate court in civil matters.

⁹¹ S. 52 (12) (2).

⁹² S. 52 (6)

⁹³ S. 52 (7).

⁹⁴ Ss 73/74 of the Senior Courts Act 2016 which repealed, amongst others, the Supreme Court Act 2003.

The Maltese Constitutional Court acts as a first instance court and as an appeal court as well. As a court of original jurisdiction, the Constitutional Court can decide a number of questions, including the validity of elections to the House of Representatives and general election results. There can be no appeal from a decision of the Constitutional Court given in its original jurisdiction. As an appellate body, it rules over the judgments from other courts. This Court is composed of three judges when it hears appeals from the judgments of the Civil Court, and of one judge when it hears appeals from the Court of Magistrates in its civil jurisdiction. There is an automatic right of appeal against the courts of First instance judgments to the Court of Appeal. It may also be possible to appeal preliminary judgments.

Ireland

In Ireland there are five jurisdictions, as follows: Supreme Court, Court of Appeal, High Court, Circuit Court and District Court. In general, appeals are lodged with the next level of court. Thus the Circuit Court hears appeals from the District Court, the High Court hears appeals from the Circuit Court and the Court of Appeal hears appeals from the High Court that would have gone to the Supreme Court prior to its establishment. A notable exception to this is where the Court of Appeal hears appeals from the Circuit Court in criminal cases.

The Supreme Court hears appeals from the Court of Appeal if it decides there are matters of general public importance to be determined or if it deems it appropriate in the interests of justice. The Court may also hear appeals from the High Court where it is satisfied that there are exceptional circumstances warranting an appeal directly to it.

Generally, there are time limits for the lodgement of appeals, although these may be extended at the discretion of the court. Orders of the District Court are generally suspended on the lodgement of an appeal, while those of superior courts are not unless a specific order (stay) is made by the court. The Circuit and High Courts, exercising their appellate jurisdiction, sit with one judge, whereas the Court of Appeal and the Supreme Court generally sit with three.

Right of appeal from the District Court to the Circuits Court is unrestricted (assuming the appeal is lodged within the 14-day time limit). Right of appeal from the superior courts is restricted by way of application for leave to appeal. The Circuit Court also acts as an appeal court for appeals from the decisions of the Labour Court, Unfair Dismissals Tribunal and the Employment Appeals Tribunal. The Circuit Court conducts a full re-hearing of the evidence when hearing an appeal from the District Court.

3.2.7 Level of Court Fees

England and Wales

In England and Wales, the amount of fees payable will depend on the type of claim being filed and the particular court it is being filed in.⁹⁵ For example, when issuing a claim for money in the High Court or County Court, fees are based on the amount claimed, including interest.⁹⁶ For claims up to the value of £300 but no greater than £500, the fee is £50; for claims greater than £3,000 but no more than £5,000 the fee is £205. A set fee exists for any claims which are greater than £10,000 but no more than £200,000. In these cases, the fees will equal 5% of the value of the claim. For those claims greater than £200,000, the fee will be £10,000. To issue a claim for something other than money the fees are based on where the claim is commenced. For example, fees in the High Court (including possession claims) are £528, whereas County Court fees are £308.⁹⁷ On filing an appellant's notice or respondent's notice in the High Court the fee is £240, whilst filing a claim in the County Court or Small Claims Court will cost £120. With any other appeals, the fee is £140.⁹⁸

New Zealand

Fees for District Court and High Court civil proceedings are listed under the specific legislative acts. Thus, for cases filed at the District Court, the District Court Fees Regulations 2009 applies, whereas the High Court Fees Regulation 2013 sets out the various fees to be paid within the High Court. For documents filed to initiate proceedings (including appeals) within the High Court, the fee is \$540. For probate and administration matters, the fee is \$200. Filing a request for an issue of a bankruptcy notice is \$200, whilst filing a creditor's application for adjudication is \$500. For documents initiating proceedings within the District Court, the fee is \$200.⁹⁹ The cost of filing an application for leave to appeal in the Supreme Court is \$1,100.¹⁰⁰

In relation to the Family Court, to apply for a Dissolution Order (for a divorce) the fee in the Family Court is \$211. To apply for a Parenting Order, or to change (vary) or cancel (discharge) a Parenting Order, the fee is \$220, whereas if applying for an order about relationship property the fee rises to \$700. For hearings about relationship property the fee is \$906 per half day or part of a half day.¹⁰¹

⁹⁵ All information on fees for this jurisdiction is taken from the Civil Proceedings Fees Order 2008 (as amended by the Civil Proceedings, Family Proceedings and Upper Tribunal Fees (Amendment) Order 2016.

⁹⁶ Fees Order 2008 Schedule 1.1-1.2.

⁹⁷ Ibid.

⁹⁸ Fees Order 2.2-2.3.

⁹⁹ Schedule 1.

¹⁰⁰ Supreme Court Fees Regulations 2003.

¹⁰¹ The Family Court Rules 2002. Part 6.

Malta

The levels of court fees for both criminal and civil proceedings in Malta are fixed. Fees for civil proceedings are contained within the Code of Organisation and Civil Procedure.¹⁰² The fees relating to criminal proceedings are contained within Chapter 9 of the Criminal Code.¹⁰³ Schedule 2 (1) (Tariff A) of Chapter 12 outlines the various fees payable in respect of trials in the Superior Courts of Justice and the courts of Magistrates in Malta and Gozo, excluding the Court of Voluntary Jurisdiction.¹⁰⁴ It states that ‘for the filing of any petition, sworn application or other act of procedure containing a claim which initiates a contentious procedure in a Court of First instance, ...’ the fee is 120 euros. For Court of Appeal civil proceedings, the fee is 200 euros, and ‘provided that in respect of an answer to an appeal, which does not contain a cross appeal’, a fee of 80 euros is payable.

In relation to actions for divorce, personal separation, annulment, child custody, possession and personal injury suits, employment based claims such as the payment of wages and unjust dismissal, and property disputes, there is a one-off fee of 100 euros.¹⁰⁵

Ireland

In Ireland the fees payable vary depending on the jurisdiction of the court and monetary value of the claim. A fee of €25 is payable in a District Court proceeding up to value of €5,000, while €400 is payable in High Court proceedings with a value of more than €1,000,000. One notable fee is the €5,000 charge for entering a notice of motion in the commercial list of the High Court (The Commercial Court). Fees are also charged for applications to court in a variety of non-litigious matters such as licencing cases. In certain cases, part of the fee is payable to the Irish Revenue Commissioners (tax authority). There are no advocate stamps in Ireland.

The level of fees is determined by the Minister for Justice and Equality, who periodically reviews the charges and publishes his/her decision in what is known as a fees order. In determining the level of fees the Minister considers, inter alia, a citizen’s right of access to justice. Fees are not charged in family law cases or for criminal prosecutions. Court fees account for approximately 40% of the annual budget of the Irish Courts Service, with €44,000,000 collected in 2016.

¹⁰² Chapter 12 as enacted.

¹⁰³ Enacted 10th June 1854.

¹⁰⁴ The Civil Court (Voluntary Jurisdiction Section) is a voluntary jurisdiction court and is responsible for the interdiction or incapacitation of persons of unsound mind, the nomination of tutors for same persons, the opening of successions and the confirmation of testamentary executors. It is also a repository for secret wills.

¹⁰⁵ Chapter 12 Section 3 (4).

Chapter 4

Analysis of Options and Recommendations

4.1 Introduction

In this chapter, drawing on the background and the analysis detailed in Chapters 1 and 2, and taking account of the comparison with other jurisdictions in Chapter 3, we outline options available to address the problems of the courts system in Cyprus, leading to recommendations.

It is no exaggeration to state that the Cypriot court system is currently in crisis, beset by inordinate delay in courts of first instance, and with appeals to the Supreme Court taking as long as 5 years to resolve. As evidenced by the analysis presented in previous reports conducted over the past decade and referred to earlier, this is not a situation that has arisen just recently, but rather has developed, and worsened, over some considerable time. The problem of chronic delays in the courts is a symptom that does not have a single cause, but rather is due to a combination of fundamental and underlying weaknesses in the system, as described in detail in Chapter 2. The current management and support system and structure of the courts, where the main responsibility for leadership and management lie with judicial and other legal specialists, who have as their primary role the fulfilling of their legal functions, is simply not working and is not fit for purpose in the 21st century. When this is combined with the lack of a basic ICT infrastructure, weak case management, lack of standards and performance criteria, an almost completely paper-based administration and file management system, sub-standard accommodation, and procedural rules that were mostly drafted more than half a century ago, one can understand how the current difficulties arose. In short, and despite the best efforts of all involved, rather than functioning efficiently and effectively and planning to meet future challenges, the system is barely surviving.

While attention has also been drawn to the relatively low investment in the courts system in Cyprus when compared to other EU countries as a reason for the current problems, and while undoubtedly this is a factor, and that the efficient and effective operation of the courts must now be considered a national priority, investing resources in a system that is fundamentally flawed does not guarantee the desired outcome.

Allowing the system to continue without major reform is simply not an option. To do so would result in the situation worsening further, with delays becoming so chronic that any remaining trust in the

ability of the courts to provide timely justice for litigants will disappear, with unacceptable results for the rule of law, the conduct of commerce, and the country's reputation.

In the rest of this chapter, we set out our analysis of how best to address the current challenges and make a set of recommendations for change. In the context of the rather minimal change that has occurred to date, these recommendations may seem radical. However, given the current state of the system, minor alterations or modifications to the existing system would have no chance of achieving the desired outcomes. The courts system needs a major overhaul if it is to serve the needs of the citizens of Cyprus, the business community, and court users now and in the future, and compare favourably with practice in other EU countries. Therefore, the recommendations that follow are analysis-based, practical in nature, and achievable, though not without considerable effort in the implementation phase, some cost, and a willingness to embrace change. Implementation of the recommendations from this review will mark the beginning of this reform process and a new phase in the development of the courts in Cyprus.

Before describing the recommendations in detail (a detailed action and implementation plan is included at 5.1.3), it is important to understand the overall implementation strategy proposed. While there are multiple problems in the current system, it is important that we do not lose sight of the fundamental pillars of reform. To do so could divert attention from the critical issues and lead to fragmented, piecemeal changes that will not have any significant impact on the problems. We earlier described these key pillars of reform to be:

- Management and leadership of the courts system.
- Institutional structures to support effective and efficient management and administration.
- Procedures, processes, and infrastructure to support the smooth and efficient operation of the courts.

Our recommendations seek to address these issues in an *integrated* way.

First, however, we must recognise that the system, both in courts of first instance and at Supreme Court level, is labouring under the weight of a massive backlog of cases, leading to unacceptable delays. For the range of changes we propose to have any chance of success, the weight of the backlog of cases must first be lifted. Therefore, in the recommendations that follow, we start by proposing how the problem of backlog should be tackled. We then go on to propose the key recommendations

for implementing an efficient and effective system for the management and administration of the courts.

It should be noted that we consider all the recommendations to be mutually interdependent, and they need to be implemented as a complete set. A piecemeal or selective approach to implementation will not achieve the desired outcome.

4.2 Options and Recommendations

4.2.1 Addressing the Backlog of Cases

The most pressing and immediate problem facing the courts at the moment is the delay in determining cases. Based on average determination rates between 2010 and 2016, even assuming no new cases were lodged, it could take the Supreme Court more than 6 years to clear its current overall backlog¹⁰⁶. Since the establishment of the Administrative Court in 2016 the rate of case completion in the Supreme Court has risen by 13%. Should this new clearance rate be maintained, then the court could complete all remaining appeals in 5.5 years, but only assuming no new cases were lodged.

The impact of a reduction in the number of incoming civil appeals—as a consequence, for example, of the restriction of the right to appeal interlocutory orders—could be significant. However, even if the number of incoming appeals reduces somewhat as a result of recent initiatives, the Supreme Court will not be in a position to make any progress in clearing the backlog. In other words, the analysis shows that the courts will never manage to clear the backlog as long as appeals are dealt with in the current manner.

The issue of delay in the District Court, while not as severe, is nonetheless significant, and analysis shows that it could take 2.4 years to clear its backlog of civil cases, assuming no new cases were lodged.¹⁰⁷ Overall, the backlog of civil applications awaiting disposal at District Court level has risen by 83% between 2010 and 2016 (see table 2 at 2.2.3.1) and shows no sign of abating. The backlogs are increasing year on year, with the completion rate for civil cases averaging 88% since 2010.

In the Industrial Disputes Court, while the number of cases is substantially lower than in the District Court, the backlog has risen by 115% since 2010.

¹⁰⁶ See table No 1 section 2.2.2.1

¹⁰⁷ See Table No 2 section 2.2.3.1

While, based on the data, the District Court is not currently able to deal with the rate of new cases, a number of our recommendations on case management and alternative dispute resolution should help alleviate the current pressure. What is clear, however, is that, while the court may, with the implementation of these proposed changes, be able to deal with new cases as they arise, it will not be able to clear the backlog.

This situation simply cannot be allowed to continue. The task of clearing the backlog, in both jurisdictions, needs now to be approached as a project in its own right. A **Taskforce** should now be established to oversee and direct this project, and it should include representatives of the Supreme Court and District Courts. We set out below various proposals regarding this project to eliminate the backlogs, as well as some constraints and variables in the project.

Project Governance and Management

As referred to above, the overall project to eliminate the backlog should be overseen by an oversight group comprised of representatives of the Supreme Court and District Court. These will obviously be only dedicating part of their time to the project oversight, but will have the overall role of agreeing performance criteria and timelines for the project, making any key decisions on legal issues that may arise, and reviewing progress.

The project needs to be led by a dedicated project team leader, at Registrar level, with knowledge of the issues at stake, who will take charge of all operational aspects of the project. The Registrar will need to be supported by at least two administrative staff in the Taskforce central office and by one or two (depending on the number of cases) full-time administrative staff at registry level in each district. These staff will be involved, under the direction of the project team leader, in quantifying, categorising and analysing the backlog for each District.

Although the problem of backlog is most chronic in civil cases, this exercise should include an analysis of the backlog of civil and criminal cases, as well as industrial dispute cases.

Project Process

The project must incorporate a number of key stages, most critically: the definition and quantification of the backlog, the analysis of the backlog, and the clearing of the backlog. While the first two stages will be common to all jurisdictions, the process of clearing the backlog in the Supreme Court will necessarily be different, as discussed later in this section.

While the current number of outstanding cases is a good indicator of the extent of the backlog to be cleared, the backlog should be defined to include those cases that have been awaiting determination for too long a period, the period of delay to be defined by the Taskforce by reference to standard international comparators. For example, in the UK Lord Briggs considered any delay in hearing appeals of more than 19 months unacceptable,¹⁰⁸ which is similar to the definition of ‘acceptable delay’ in Ireland. Therefore, an analysis will be required to identify the cases that fall into this category.

Once the backlog of cases has been quantified, these cases should be separated from current cases, and then classified by type, level of complexity, etc. As a result of this process, the courts will know exactly how many cases there are to be resolved and what type of cases they are.

Once the precise quantum and nature of the backlog has been established, the system and resources must then be put in place to clear all those cases. This part of the project should be co-ordinated centrally under the direction of the Taskforce and managed by the project team leader, with the active assistance of local registries. This process of clearing the backlog must be undertaken separately from the daily work of the courts, so as to allow the courts to continue to conduct its business uninterrupted. As noted earlier, while the task of analysing the backlog applies both to the backlog of appeals in the Supreme Court and the backlog of cases at District Court level (and including industrial disputes), the approach to dealing with the backlog of cases after they have been identified will necessarily differ.

Clearing the Backlog

In relation to the backlog at District Court-level, while the analysis of the backlog is being conducted, there should also be established a dedicated panel of qualified personnel to determine these cases. There are a number of options for creating such a panel. For example, this panel could be appointed from the ranks of recently retired district judges. The Review Team understands that this approach was used in the past, and it seems to represent a practical approach that could be achieved within a relatively short timescale. Another option would be to temporarily increase the number of district court judges through the standard recruitment process on contract for a specified period. We leave the precise approach to the establishment of the temporary panel to be specified by the oversight group, but the main objective is to have a group of qualified personnel in place to deal with the backlog of cases in an efficient, professional, and timely manner.

¹⁰⁸ www.guardian.com/law/2016/mar/07

It will not be possible to specify with any real accuracy the number of temporary judges required to clear the backlog until the analysis of the backlog has been completed. The reason for this is that assessing the number of judges required depends on a number of variables, including:

- the definition of precisely what constitutes the 'backlog,' e.g. cases more than 2 years in the system
- the complexity of cases
- different types of judge will be required for different cases
- the breakdown of the backlog by district
- the availability of infrastructure e.g. courtrooms.

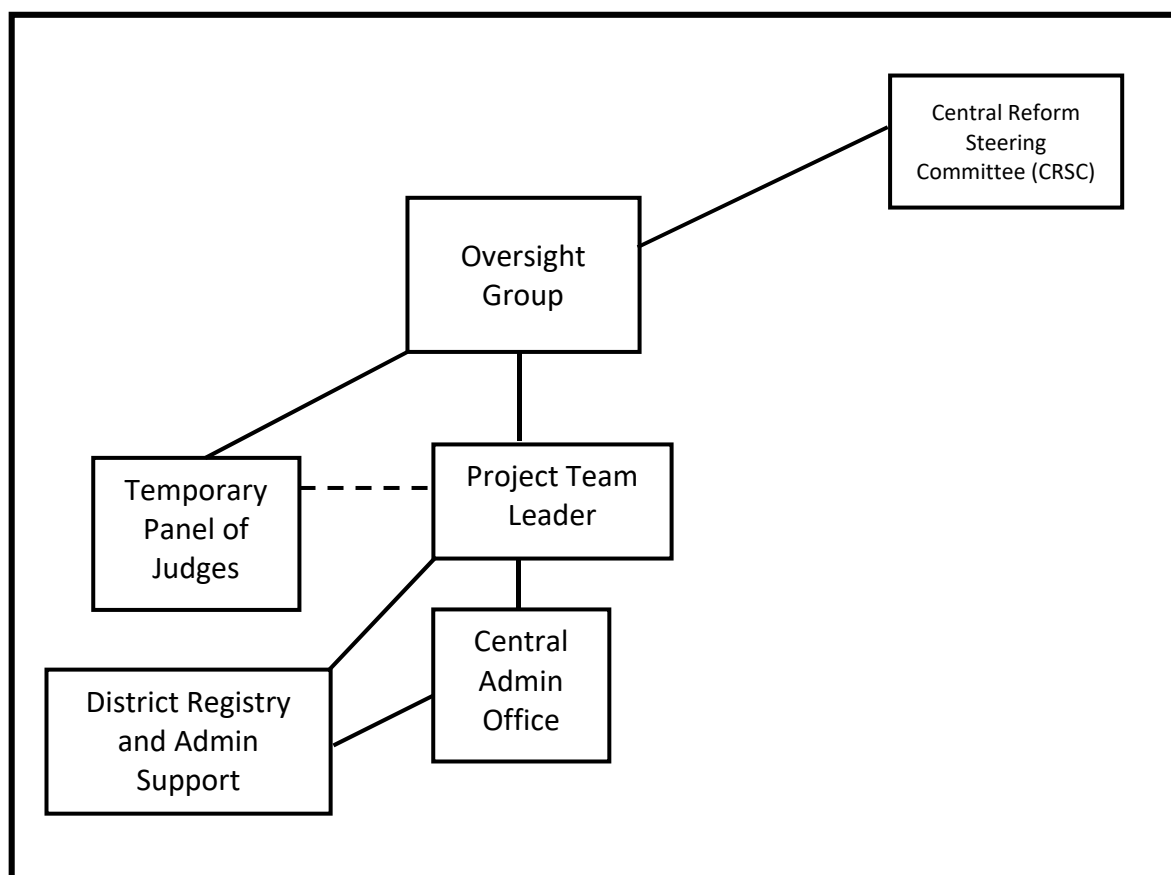
However, one option would be to start with a panel of ten judges and then complement the panel based on early experience with clearing the backlog.

Once the panel of judges has been established, they will have to be supported in their work by appropriate registry/administrative staff, effectively operating as a registry for the backlog cases. Depending on timing (for example, whether the analysis of the backlog has been completed by the time the hearing of cases commences), the administrative staff in each district dedicated to this work could now play this support role. Consideration may also have to be given to the appointment of a full-time judge to assist the project team leader, effectively operating as a case manager for the backlog. This will depend, inter alia, on the complexity of legal issues and decisions that may have to be made.

Timescale

Following the quantification and analysis of the cases in the backlog, the project team leader should estimate how long it will take to clear the backlog, set targets for completion date, and monitor these targets. As noted above, and assuming no new incoming cases, based on the data it would take 2.4 years to clear the civil backlog at District Court level. It could therefore reasonably be deduced that it will take at least that long to complete this task. In the case of the Industrial Disputes Court it could take 3 years. However, the precise timescale will depend on the number of judges that can be appointed to the panel, the complexity of cases, and the availability of courtrooms to hear cases.

Figure 6 – Composition and Structure of Taskforce*



*May need to be supported by a full-time Judge.

The key resource for the project is the panel of suitably qualified judges to try the cases. The other key personnel will be the project team leader, central administrative staff, and administrative staff at district registries. In addition, the appointment of a full-time judge to case manage the work may be deemed necessary.

The full-time staff will need office space and technology support. Courtrooms will also need to be identified/allocated for hearing the cases.

The budget for the project can only be accurately costed once the Taskforce has established how many people, judicial and support, will be assigned to the project, including the number of judges that can be appointed to the panel. The project team leader must construct a budget for approval as one of the first stages in the project.

Once the backlog is cleared this panel can be disbanded and, with the benefit of the implementation of the recommendations from this review, the delays now being experienced should not arise again.

Project Terms of Reference

In the case of the District Court and Industrial Disputes Court, the terms of reference for this project should include:

- Identification of size of backlog.
- Analysis and classification of cases (civil and criminal, length of delay, level of complexity, etc).
- Identification and recruitment, on a temporary basis, of appropriate qualified persons to determine cases.
- Identification of appropriate support personnel.
- Identification of appropriate premises for the conduct of hearings.
- Identification of appropriate timeframes for completion of cases.
- Preparation of detailed project costings.

Clearing the Backlog of Appeals

There must similarly be an identification and analysis of the backlog of appeals in the case of the Supreme Court. However, when it comes to processing the backlog, it is not possible, for constitutional reasons, to increase, even temporarily, the number of judges. As a result, it is not possible to clear the backlog in the Supreme Court in the manner described above.

It is notable that the number of appeals finalised by the Supreme Court increased by 17% in 2016, which coincided with the establishment of the Administrative Court. Should the court continue to determine appeals at the 2016 rate, then it would clear the backlog in 5.5 years, assuming the court receives no new appeals (which in practice it obviously will). Even allowing for the further positive impact of a reduction in the number of civil appeals as a consequence of the restriction of the right to appeal interlocutory orders, the Review Team anticipate it would take approximately 4 years to clear the current backlog.

As the vast majority of cases before the Supreme Court are appeals, any approach for the clearing of the backlog, after it has been identified and analysed by the Taskforce supported by its project team, must be considered by reference to the appeals process as a whole. This is considered in more detail below. Therefore, while the analysis and quantification of the backlog of appeals can proceed in

parallel with the analysis of the backlog in the courts of first instance, the clearance of the backlog should follow the completion of the review of the appeals process, which is dealt with in the next section.

Recommendation 1

Establish a **Taskforce**, supported by a dedicated project team leader and project team, to address the backlog in the Supreme Court, the District Court, and the Industrial Disputes Court.

4.2.2 Appeals Process

The figures presented in Table 1 at section 2.2.2.1 show that the number of appeals being filed with the Supreme Court each year has almost doubled between 2010 and 2016. The number of appeals now outstanding is simply causing the system to grind to a halt. Therefore, measures to remedy the situation must address both the rate of input of new appeals and the process for hearing appeals, including the issue of jurisdiction.

At the outset it must be noted that in choosing to lodge an appeal, litigants are exercising a constitutional and legal right common to all advanced legal systems, a right that must be protected. Chapter 3 describes the appeals process in a number of other countries. What is noteworthy from this description is that while the unrestricted right to appeal orders of the lower courts is an absolute right in all the countries discussed, only Cyprus and Malta allow an unrestricted right of appeal to their highest court. Examination of appeal structures in other European countries, and in New Zealand, Canada, and Australia, confirms that this absolute right of appeal to the Supreme Court is rare. In many of these countries there is a separate Appeals Court, and in many cases leave to appeal must also be granted. It appears, therefore, that by comparison with international practice in developed countries, the appeal process in Cyprus is anomalous.

In Ireland, when an unacceptable backlog of appeals in the Supreme Court was identified, the Government established a working group in December 2006 to examine how the issue might be addressed. The group reported in June 2009, recommending the establishment of a Court of Appeal, which, following a referendum on the matter in 2013, was established in 2014. As a result of this initiative, appeals previously heard by the Supreme Court are now heard by the Court of Appeal. This allows the Supreme Court to focus on matters of constitutional importance.

It was not within the scope of this current functional review to undertake a comprehensive review of the appeals process, including consideration of jurisdictional matters, but this is an area that must now be considered as a matter of urgency. To address the issue in Cyprus, all aspects of the appeals process must be considered because they are necessarily interdependent. We understand that the Supreme Court also believes that a review of the appeals process should now be initiated.

We recommend therefore that a review to consider all aspects of the appeal process be established as a matter of urgency. It should have as an objective the establishment of an effective appeal process that would protect the appellants' right to challenge the judgements of lower courts, increase efficiency in the system, and provide assurances regarding the prompt hearing of appeals. This review should be undertaken speedily. While the precise composition of the review group is a matter for the Supreme Court, we would envisage that input will be required from the judiciary, the Attorney General, the Cypriot Bar Association, legal academics and users of the courts system.

With regard to the scope of such a review, we would envisage that it would specifically investigate the following:

- Establishment of a second-tier Court of Appeal.
- The future role of the Supreme Court in the appeal process, including following the possible establishment of a separate Court of Appeal.
- Restrictions on the absolute right to appeal.
- Potential for more paper- based appeals.
- Single judge courts of appeal.
- Establishment of a separate appeals process for minor cases.
- Establishment of a fast track arrangement for urgent appeals.
- Rules and procedures for any proposed system.
- Establishing benchmarks for time to process appeals.
- Consider the impact of E-Justice on the appeals process.

Given the urgency of the situation, the review should be undertaken within a short timeframe. The review should result in a clear and unambiguous set of recommendations to enhance the capacity of the system to process appeals expeditiously. The review should take account of relevant recent developments, including the recent establishment of the Administrative Court and the proposed establishment of a Commercial Court and the Administrative Court on International Protection.

Once recommendations from this review of the appeals process begin to be implemented, this should in turn result in a much more limited flow of appeals to the Supreme Court, thus allowing it to focus on its role as the highest constitutional court in the land. The current backlog of appeals in the Supreme Court, having been defined and analysed by the Taskforce, can then be addressed by the existing complement of Supreme Court judges. The backlog can be eliminated within a specific timeframe and according to a process and targets established by the Taskforce. Once this is complete, and the backlog cleared, the numbers of judges on the Supreme Court can be revised downwards to take account of the new and more focused remit of the court.

Recommendation 2

Establish a review group to specifically investigate the introduction of revised arrangements for the hearing of appeals, including the establishment of a second tier Court of Appeal.

Once complete, the existing Supreme Court to be tasked with the clearance of the existing backlog of appeals, according to parameters established by the Taskforce.

4.2.3 Governance and Management of the Courts System

The foregoing analysis has shown that the absence of a proper management structure in the courts system in Cyprus has led to a situation where the courts today are operating effectively in the same way as they were at the time of their establishment in 1960. There are many problems with the current system, as detailed in Chapter 2 of this report. There are very weak management processes and an absence of planning; lack of management information and analysis; an almost completely manual system in the registries, with little or no use of ICT; weak communication with external stakeholders and court users; poor management of courtroom and other resources; and there is a lack of structured liaison with other Ministries and Departments that provide critical supports to the courts. The problems now being experienced stem in large part from the fact that the capacity and resources do not currently exist within the system to provide sufficiently strong leadership and management, or to implement the fundamental changes now required.

In order to ensure that the courts system works efficiently and effectively, that problems are identified and dealt with speedily, and that plans are in place to develop the courts to meet future needs, it is essential that there are management structures in place that are fit for purpose. Therefore, effective management systems and structures must now be put in place.

Institutional Arrangements and Governance

The review of the organisational and institutional arrangements in other countries, as set out in Chapter 3, shows that while there are a variety of institutional arrangements in place for the management and administration of the courts, they effectively can be categorised into those that are operated ‘internally’ through the existing structures of the courts or the Ministry of Justice, and those that are operated through an independent agency specifically purposed to provide management and administration for the courts (such as in Ireland, and England and Wales).

As noted previously, other reports have previously identified problems in the courts in Cyprus, but there has not been the capacity in the system to implement the necessary changes. The problems have now become more chronic, and the need for solutions more urgent. There are now major projects and developments under way, such as E-Justice, that will require significant change in the way the courts are managed and operate, and the capacity must be in place to fully exploit the potential arising from these initiatives. A system must be put in place that will not only ensure that the problems now being experienced do not arise again, but that the courts system in Cyprus will compare favourably with other countries leading the field in the administration of justice.

For all of these reasons, we believe that any incremental approach to the revision of management and organisational arrangements that involves some modification of existing internal management structures will not create the capacity and the dynamism now needed to meet these challenges. This is the time for a fresh start for the management and administration of the courts in Cyprus, and this is best achieved through the establishment of a new structure.

The Review Team is of the view that the establishment of an independent statutory body, which for ease of reference in the rest of this report we refer to as the **Courts Service of Cyprus**, to manage and support the courts would represent a first, but very important, step in the modernisation of the Cypriot courts system. Establishing this body on a statutory basis will ensure that its powers and functions are enshrined in statute, will provide clarity with regard to purpose and function, and will protect its independence in the execution of its role. The body, through its Chief Executive Officer, will be accountable for the effective and efficient use of allocated resources.

The new Court Service of Cyprus will incorporate all of the support staff currently deployed within the existing courts system, but will be established as a separate, independently managed service to support the judiciary and to ensure the smooth, efficient and effective functioning of the courts. The

Courts Service of Cyprus will be led by a Chief Executive Officer and a management team (see below for more details), thus putting in place a professional management team that is dedicated exclusively to the ongoing leadership of strategy and change and the management of the operations of the courts. The Review Team believes that such an independent agency, with professional management fully dedicated to the transformation and ongoing management of the courts, represents the best chance of success.

The responsibilities of the new Courts Service of Cyprus will encompass all aspects of management, planning and administration, though of course the judiciary will remain separate for the purpose of the administration of justice. The powers and functions of the Courts Service of Cyprus must be clearly set out in statute, but should reflect the following:

1. The management of the courts system, including strategic and business planning.
2. The preparation of a budget for submission to the Minister for Finance.
3. The management of its budget with regard to economy, efficiency, and effectiveness.
4. Management of staff, in liaison with Ministry of Finance (PAPD).
5. Management of change, including managing court involvement on change projects relating to management and administration of the courts.
6. The provision of the necessary support services to the judiciary, including secretarial and research services.
7. The provision of the administrative back-up necessary for an efficient Courts Service.
8. The provision of an effective communications system between staff and judges.
9. The provision of information on the court system to the public, media and court users, including the publication of an Annual Report.
10. Liaising with the relevant bodies regarding the provision, management and maintenance of suitable court buildings and facilities.

The new Courts Service will be established by statute, have clearly defined functions, and have a CEO as Controlling Officer for budgetary purposes. Its management team will be responsible and accountable for all aspects of strategy, management, budgets, and operations, but will of course operate within the existing legal framework and practices of Cypriot public administration. Collectively, and taken in conjunction with the governance structures discussed below, these characteristics will define the independence of the Courts Service.

Consideration must also be given to the governance structures within which this new statutory body will operate. We appreciate that the governance arrangements that apply to such bodies differ somewhat between countries, so the approach most fitting for Cyprus will have to be determined by the key stakeholders, including the Supreme Court, the Ministry of Justice, and the Ministry of Finance. However, below we discuss some of the options and set out what we regard to be the optimal approach.

As the judicial system represents the third arm of government in Cyprus, it is important that any new governance model for the management and administration of the courts ensures the continued independence of the judiciary in the exercise of their judicial function. It is also important, however, that the judiciary, and most particularly the Supreme Court, have a key role in setting overall direction for the Courts Service. The Courts Service should also be in a position to embrace a wider range of perspectives, for example when developing and implementing strategy and business plans. The Courts Service, as an independent statutory body, should also be accountable for the effective and efficient use of resources, including budgetary accountability. Given these requirements, the Review Team considered a number of possible governance arrangements for the Courts Service. These are discussed below.

One option would be to establish the new Courts Service reporting directly to the Supreme Court, which would effectively maintain its oversight role and responsibilities, albeit with more professional management support. While this has the advantage of continuity, the Supreme Court, due to its core judicial role and function, may not be in a position to devote sufficient time and resources to undertake the ongoing strategic and management responsibility that would be required in this model, not least to oversee the fundamental transformation of the courts system that now lies ahead. The Supreme Court would also not necessarily embrace the full set of strategic management and other competencies needed to undertake such a role.

A second option, and a variation on the first, would be to establish an oversight board for the new Courts Service with a majority representation of the Supreme Court judiciary, but also to include representation from the judiciary of the courts of first instance. This option, while preferable to the first option because it embraces a wider representation of perspectives and skills, would also, in our view, not necessarily encompass a sufficiently wide range of expertise and perspectives. It would also still demand a significant portion of judicial time.

In the view of the Review Team, the best option, influenced both by experience in the Irish context and the comparative study undertaken of the arrangements in other jurisdictions, is the establishment of an independent statutory agency with a Board that would have a wider representation, but with a judicial majority. The Board would be chaired by the President of the Supreme Court. This option would be more inclusive, with representation both from the judiciary and other key stakeholders, and reflect a shared responsibility for the successful operations of the courts. The CEO, in their capacity as head of administration, should also be a member of the Board. This arrangement would also be reflective of the approach taken in a number of other jurisdictions, including in Ireland, and in more recently established court administrations, such as Norway.¹⁰⁹

The appropriate arrangements, in a Cypriot context, for governance and accountability of the new independent Courts Service of Cyprus will need to be discussed by the Supreme Court, Ministry of Justice and Ministry of Finance.

It is understood that establishing the new Courts Service, including the drafting and passing of legislation, will take time. In the meantime, recognising the urgent need to progress the change agenda set out in this report and in order to expedite matters, it may be necessary to put in place a transitional arrangement for the establishment of a Courts Service of Cyprus, including a transitional Board with a Chief Executive Designate. A similar body was established in Ireland to good effect pending the passing of legislation to establish its courts service. However, any such arrangement should only be made in the context of clear and agreed timelines for the completion of the enactment of the relevant legislation and should not become a substitute for establishing the Courts Service of Cyprus.

Recommendation 3

Establish the **Courts Service of Cyprus** as an independent statutory body to undertake all aspects of management, administration and support to the courts. The Service will be governed by a Board with a judicial majority chaired by the President of the Supreme Court and with representation from key stakeholders.

¹⁰⁹ Presentation of the National Courts Administration and the Norwegian Court Reforms of 2002
Arvid Rosseland, www.scandinavianlaw.se

4.2.3.1 Management Team and Structure

We set out in this section more detailed recommendations relating to the management team and structure for the new Courts Service of Cyprus.

Chief Executive Officer

The Courts Service should be led by a Chief Executive Officer. The appointment of a Chief Executive Officer will support delivery of the policies and strategic direction set by the Board. The role and responsibilities of the Chief Executive Officer will include, inter alia:

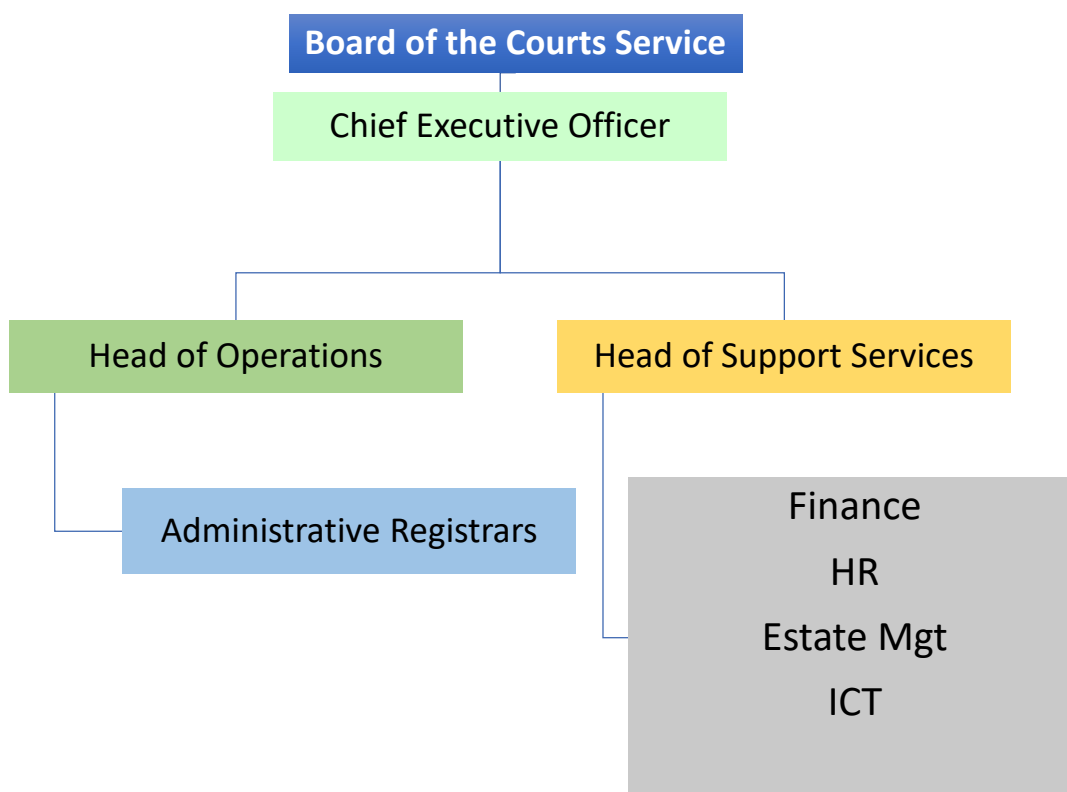
- Management of the Courts.
- Controlling Officer, accountable for the budget of the Courts Service.
- Implementation of the policies of the Board.
- Development of a Strategic Plan for consideration by the Board.
- Implementation of the Strategic Plan.
- Introduction and implementation of strategic, business and other planning frameworks within the courts system.
- Management of resources, including staffing and budgetary.
- Implementing a program of organisational change.

An office of the CEO should be established to provide appropriate support to the Board, the Chair of the Board, and to the Chief Executive Officer.

Management Structure

The management structure below the level of the CEO will also be critical to the success of the new Courts Service. The Review Team recommend that two divisions be established, reflecting two defined areas of responsibility, namely Court Operations and Court Support Services. Each division should be led by a senior manager as Head of Division, who would provide the required support to the CEO, and who together would form the core Courts Management Team. The overall proposed structure is set out below.

Figure 7 – Proposed Structure of the Courts Service of Cyprus



Arising out of the establishment of this new structure, the following functional areas will need to be established.

Court Operations

This Division will have responsibility for all aspects of court operations, including;

- management of the registries
- liaising with the judiciary to ensure the smooth running of the courts
- providing support for court sittings
- management of the day to day operations of the courts
- provision of standard operational guidelines for the registries.

Court Support Services

This Division will have responsibility for managing all other support services including ICT, HR, Finance, and infrastructure management and development. The following briefly summarises some key areas of responsibility.

Information Technology

- strategic ICT planning
- development and management of ICT systems and ICT support
- production of management information reports
- liaison with relevant central bodies.

Human Resources

- management of staff resources and personnel matters, including workforce planning
- staff training and development
- management of performance
- liaison with relevant central bodies.

Finance

- development of annual and multi annual budgets
- budget reporting
- internal audit
- liaison with relevant central bodies.

Estate Management

- management of infrastructure, including buildings, security, and court facilities
- development of a building strategy to meet future accommodation needs, and liaising with other relevant bodies on capital projects
- facilities Management
- liaison with relevant central bodies.

Corporate and Information

- corporate governance, strategy and business planning, and risk management.
- support to the Chair of the Board, the Board, and the CEO
- compile annual reports and other publications
- customer service/information to the public
- media office
- courts website.

Given the current lack of formal processes, agreed formal processes for engagement by the Courts Service with relevant bodies such as the Ministry of Justice and Public Order, Ministry of Finance, and Public Works Department will have to be put in place. The Board of the Courts Service will also provide the opportunity for structured engagement with key stakeholders.

The new administration will incorporate the current administrative and support staff in the courts system and should not necessarily involve any change to their existing schemes or conditions of service. Once in place, the new CEO may identify other specific skills and specialist competencies that may need to be recruited. While recognising that in Cypriot public administration interchangeable staff from Ministry of Finance/PAPD will still be a feature of the new Courts Service, the future mobility or transfer of those staff should only be made following consultation with the CEO, and taking account of the requirements of the Courts Service, and this should be reflected in the workforce plan.

The establishment of the new management structure and functions will require resourcing. While the staff of the courts are highly skilled and motivated, the establishment of a new courts structure and administration is a major task and will inevitably require specialist input and expertise from the wider public or private sectors.

Recommendation 4

Establish an organisational and management structure for the new Courts Service of Cyprus, headed by a Chief Executive Officer and supported by two senior managers / Heads of Division, with two distinct areas of responsibility - Court Operations and Court Support Services.

It is also very important to note that the implementation of a number of recommendations arising from this review, and addressing the various aspects of change management, will become an immediate priority for the newly established Courts Service and its management team. For example, the CEO and management team will need to immediately review the status of capital buildings projects, including the development of courtroom infrastructure and security, and the specific issues identified in Nicosia; develop a risk management process and plan; address the issue of providing appropriate supports to the judiciary; identify, and agree, the appropriate staffing complement for the new Courts Service; develop an ICT Strategy; and develop financial strategies and budgets on a multi-annual basis. Because all of these areas are critical to the future success of the courts system in Cyprus, it is appropriate that they should be implemented by the CEO and the new management team and not be pursued as separate initiatives.

Recommendation 5

The newly appointed CEO and management team to take responsibility for developing strategies and plans for the courts service to cover, inter alia, accommodation and security; risk management, including the establishment of a risk register; staffing numbers; staff training and development; ICT; financial and budgetary strategy; and supports to the judiciary, the public and all court users.

4.2.4 Case Management

It is clear that the current lack of an effective case management system in the courts of first instance is a key contributory factor to the current difficulties being experienced, particularly the problem of delay, and the inefficient use of judicial and court time. These problems have been described in detail in Chapter 2.

The key principle of case management is that the progress of a case must be monitored at all stages along the process from initiation to disposition, with clearly defined time frames established for each stage and appropriate action taken to address and difficulties or delays. This principle is not applied in the Cypriot District Court system. While the process for progressing cases to, and through, the courts is fairly standard, it is the absence of effective monitoring, management, and oversight of cases that is compounding the problems already caused by the lack of technology, the growing backlog of civil cases awaiting hearing, and the increasing complexity of cases.

The introduction of an effective technology-enabled case management process will help to ensure that cases are disposed of within a defined, and acceptable, time frame. With a technology-enabled system, better information on the progress of cases and the length of delays would allow for the application of remedial measures such as the allocation of increased resources, or of court time, to certain case lists.

However, such a technology-enabled system will not be available pending the full introduction of the E-Justice project. While implementing a more consistent interpretation and application of the Rules of Civil Procedure might improve matters, it would not go nearly far enough to solve the problem. The current individualised approach adopted by the judiciary to the monitoring and ‘diarying’ of cases, the current practice of non -continuous hearings, and the ongoing waste of scheduled court time that has

been freed up as a result of cases being settled would continue. This is not sustainable, even after a technology-enabled system has been implemented.

It is the view of the Review Team that an integrated approach to addressing this problem of case management is now required. This should be through the introduction of a case management judge in each district. Similar to the practice in a number of other jurisdictions as outlined in Chapter 3, the introduction of a case management judge would facilitate the establishment of a standardised approach to case management and give clarity of practice and certainty of timelines to both lawyers and other parties to the case.

The case management judge in each district would be responsible, inter alia, for:

- the early procedural matters and decisions in a case
- centralised diary management, and the allocation of cases to hearing by the registry
- holding a monthly call-over to identify cases that are settled or not yet ready for hearing
- monitoring of cases that are not completed by a judge on the date of hearing and the consequent re-arrangements of the list.

Active case management will assist in achieving the optimal use of both judicial and court time, not to mention maximising the effective use of courtrooms. Case management judges will work closely with the Administrative Registrars, Administrative Presidents and the judiciary in fulfilling their role. In addition, it is good practice that the Head of Operations in the Courts Service should liaise regularly with newly-established case management judges. The new case management procedures should be made available to all users of the courts and published on the courts website. This will provide clarity to applicants and a framework for practitioners.

The case management judge responsibilities can be rotated over time, so that different judges have the opportunity to undertake this role. However, it is important that judges be assigned for a specific, continuous period of time. Having said that, case management duties may not always entail a full-time role. Where that is the case, the judge could also engage with normal judicial duties

In addition to the appointment of case management judges, a number of other initiatives can lead to more effective case management. While as noted earlier, there is widespread agreement that the Rules of Civil Procedure need radical reform, the current rules already provide the judiciary with

certain case management powers. The recent amendments to Order 25 and Order 30 have further strengthened these powers by giving the judge a more active role in the conduct of the action and by introducing a simplified and more expeditious procedure for claims under €3,000. However, the expected benefits of those amendments have not been fully realised due in some part to the inconsistent application of the new rules and the lack of guidelines as to their interpretation. In seeking to manage cases efficiently through the system, judges need to be stricter in the application of rules and less accommodating of practitioners who do not comply with directions or deadlines.

As noted earlier, it is not the norm in Cyprus to have continuous hearings. The system is characterised by multiple adjournments, with resulting discontinuity, delay, and wasted time for all those involved. Cyprus should introduce a system of continuous hearings, one which will contribute to overall efficiency.

While few problems were raised generally in relation to the case management of criminal cases, the current practice of continually relisting as yet unserved summons was highlighted as an issue that creates additional work for the staff, judge, and prosecutor.

The implementation of the E-Justice system will be a further significant support to the introduction of improved case management processes in courts of first instance. Pending the introduction of that system, at 4.4 below we also identify some short-term measures that could be implemented to use existing technology as a support to case management.

In the Supreme Court, the case management process is less complex and more ordered. The cases proceed along the case management continuum in a relatively straightforward way, with the main problems being the manual and paper-based nature of the process and lack of available court hearing time. The operation of case management in that court will also benefit from the introduction of technology-enabled processes and from revisions to the appeals process arising from the review recommended above.

Recommendation 6

Assign a case management judge(s) in each district to manage cases to trial, to allocate cases to hearing, and to ensure consistency in the application of rules, procedures and practice directions. The new procedures should be made publicly available.

Recommendation 7

With the implementation of E-Justice, and prior to that with some enhancement of existing ICT systems, to introduce case categorisation, tracking, and monitoring systems to support the streaming of cases, monitoring compliance with orders and protocols, and managing the central allocation of cases to hearing.

Recommendation 8

Introduce a system of continuous hearings.

Recommendation 9

Criminal summons cases should not be entered in the court list until service is effected.

4.2.5 Judicial Time Management

The most important resources available to a courts system to ensure that cases are heard in a fair and equitable manner, and within acceptable timeframes, are judicial time and a consistent approach to case management. It was noted earlier that in the case of the Supreme Court, while the processes and procedures are in many respects inefficient and lacking supporting technology, the reason why the backlog of appeals cannot be reduced is the lack of court time. While the implementation of the recommendations for revised case management arrangements outlined above will help ensure that judicial time is used more effectively, a number of other measures to optimise the use of judicial time should be taken. These are discussed below.

Composition of Revisional Appeals Bench

The administrative jurisdiction of the Supreme Court was transferred to the Administrative Court on its establishment in 2016. The Supreme Court hears appeals against the decisions of the Administrative Court. In accordance with Law 33/64, the appeal bench is composed of three judges. Appeals against the judgment of the Supreme Court in its former first instance administrative jurisdiction (cases lodged up to 31/12/2015) are currently heard by two five-judge benches. If the law permits, changing to the lower composition bench for all revisional appeals would free up judicial time and allow for the creation of an additional appeal bench for civil appeals.

Recommendation 10

The Supreme Court should consider reducing the composition of the appeals bench to three judges for all administrative appeals.

Best use of Legally Qualified Staff

The court registrars and legal officers that are assigned to the Judicial Service in Cyprus are all qualified lawyers. In other jurisdictions, registrars, as part of the case management process, carry out a range of routine procedural duties. This does not interfere with the decision-making role of the judiciary, but it does allow more judicial time to be devoted to the hearing and adjudication of claims. For example, in Malta judicial assistants may replace the judge in conducting pre-trial hearings before the General Jurisdiction Section of the Civil Court.¹¹⁰

While in Cyprus the legal officer is assigned to each judge, in other countries legal officers may also be part of a team of legally qualified officials who provide support to the judges/court divisions. This resource is deployed flexibly according to particular needs, and the provision of these services is managed through a senior officer. This type of legal support is commonly provided to members of Superior Courts in comparable jurisdictions, both for support with drafting of court judgements and conducting research on behalf of the judiciary. The most effective and efficient deployment of legal officers within the courts system will need to be considered once the new Courts Service of Cyprus has been established.

Legal officers could play a valuable role in assisting with the drafting of judgements, providing research support, and assisting with diary management. Registrars could also encompass an extended brief, including by dealing with consent to adjournments and extensions of time. These measures could assist in making more effective use of judicial time.

Recommendation 11

The role of Registrars and Legal Officers should be expanded to include dealing with routine procedural matters, assisting in research and the drafting of judgments.

¹¹⁰ Malta Ministry for Justice, Culture and Local Government. Courts of Justice-The Pre-Trial System. Available at <https://justice.gov.mt/en/justice/Pages/Courts-of-Justice.aspx>.

Judicial Appointments

Under the constitution, the Supreme Court also acts as the Supreme Council of Judicature, responsible for the appointment, promotion, and transfer of judges. The Review Team observed that during the period of this review, a full month had to be dedicated to interviews to appoint new members of the judiciary, and that the entire bench of the Supreme Court was in attendance at all interviews. This led to a situation where, with the exception of urgent matters, the Supreme Court did not sit during that time.

In Ireland, by comparison, judicial appointments are the responsibility of the Judicial Appointments Advisory Board, and in Malta judicial misconduct is dealt with by the Commission for the Administration of Justice. This allows for these functions to be afforded appropriate priority, while also reducing the workload of the Supreme Court and freeing up judicial time. It could also be argued that an interview board comprised of thirteen members is too large, not aligned with best practice, and not necessary in a modern judicial appointments system.

Recommendation 12

The composition of interview boards for judicial appointments should be examined with a view to reducing the number of Supreme Court judges directly involved.

Judicial Support

To allow the judiciary to manage their time effectively, appropriate supports in the areas of information technology and legal research are vital. Provision of desktop computers, printers, laptop computers, and remote access to the courts systems, together with responsive ICT support, should be standard practice.

While for research purposes the judges in the Supreme Court have access to the legal officers attached to that court, the judges of the courts of first instance rely mainly on their own research, and on the limited resources provided by the librarians attached to each District Court. In this context, the provision of timely access to online legal resources, including re-instating access to subscription-based legal database services that were previously available, will assist in the preparation of judgments within an acceptable time frame.

Recommendation 13

Judges should be provided with modern ICT hardware, software, and remote access to relevant systems, with appropriate training and support. Access to online legal databases and resources should be facilitated.

Recording of Court Proceedings

The operational difficulties and limitations relating to the use of stenography as the method for recording court proceedings are fully set out in Chapter 2. The currently inadequate level of stenography, or stenotyping, support is negatively impacting on the efficient use of judicial and court time, as it is not always possible to provide a stenographer for each court hearing. In such situations, the judge, in addition to listening to the evidence and managing the progress of the hearing, is also required to take the notes of the case. This can lead to serious delays in the production of the written record or order, not to mention the negative impact on the time taken to conduct proceedings.

The current strategy being adopted by the courts is to gradually replace stenography with stenotyping. While stenotypists are currently contracted from the private sector, the plan is over time to retrain the stenographers currently employed by the courts. This is a time-consuming and expensive process, with limited progress so far.

While more efficient than the current shorthand system, this initiative is at variance with common practice in other advanced jurisdictions such as the U.K. and Ireland, where digital electronic recording systems have become standard. Digital recording of court proceedings allows for consistent and timely production of transcripts, or part thereof, as required, as well as allowing for evidence to be replayed in court should the need arise. It also facilitates accurate transcript management, and eliminates the current dependency on individuals to produce transcripts. In addition, digital records of proceedings eliminate the risk associated with paper-based transcription systems.

Recommendation 14

Introduce digital audio recording (DAR) of court proceedings

4.2.6 Alternative Dispute Resolution (ADR)

The primary purpose of alternative dispute resolution (ADR) is to ensure the speedy, cost effective resolution of disputes so that court hearings are a last resort for litigating parties. As such, ADR is considered an intrinsic part of the case management process.

The 2016 EU Justice Scoreboard¹¹¹ states that “access to justice is not limited to courts but applies to other avenues outside courts as well”. As a consequence, the Review Team considered the use of ADR both outside and inside the courts system in Cyprus, and whether either form may help expedite the resolution of disputes.

From the perspective of the courts, the most effective form of ADR is where disputes are resolved before court proceedings commence, *i.e.* ADR outside the courts system. This both provides a resolution for the opposing parties and avoids the wasteful use of court time. A number of examples of such ADR are referred to in the comparative analysis in Chapter 3, such as the Personal Injuries Assessment Board (PIAB) and the Residential Institutions Redress Board in Ireland. In the case of both of these schemes, thousands of cases were diverted from the court system and resolved to the satisfaction of the parties without the requirement for court trial. In the case of PIAB, a panel of experts conduct a paper-based assessment which is relayed to the parties within a 7-month deadline. It is important to note that neither of these schemes compromises the right of access to the courts. They do, however, offer litigants an effective alternative should they accept it, with the data showing that the majority of people choose to do so.

No such schemes of ADR exist in Cyprus, where initiation of court proceedings is generally seen as the first step in litigation. Despite this, and as noted above, less than 5% of all civil applications proceed to full trial, leading to the conclusion that many civil disputes could be settled outside the courts system. This fact, and the success of the ADR mechanisms referred to above, makes a compelling case for the introduction and promotion of ADR mechanisms, particularly in areas such as personal injuries and consumer disputes, with court proceedings initiated only if the ADR judgement is rejected by either party.

Consumer disputes, often involving relatively minor amounts, has been recognised as an area where ADR is particularly useful. For example, Article 5 of Directive 2013/11/EU of the European Parliament

¹¹¹ The EU Justice Scoreboard 2016, European Commission, page 23

provides that countries should facilitate access by consumers to ADR.¹¹² The speedy resolution of any such disputes without the need to initiate court proceeding is generally recognised as benefitting parties to disputes, while not using up valuable court time. Such resolution should be facilitated through a consumer disputes mechanism. In keeping with the examples mentioned above, the EU Directive also emphasises the right of access to the courts; the correct balance between providing access to ADR mechanisms and preserving right of access to the courts must be maintained.

We recommend that ADR mechanisms be established in Cyprus for dealing with personal injuries cases and consumer disputes. We also recommend that careful consideration be given to making recourse to these ADR mechanisms a requirement, as is the case with the PIAB in Ireland. If resolution is not possible using these mechanisms, then litigants retain the right to refer their case to the courts.

Recommendation 15

Introduce ADR mechanisms in consumer disputes and injuries assessment cases as an alternative to issuing court proceedings.

Despite the fact that ADR is widely regarded as an important tool, it remains underdeveloped as a dispute resolution mechanism in the courts systems of many jurisdictions. This is also the case in Cyprus, notwithstanding the establishment of a framework for the use of ADR pursuant to the Certain Aspects of Mediation in Civil Law of 2012 Act, and the registration of more than 300 mediators with the Department of Justice and Public Order. The courts often end up acting as de facto conciliators in an attempt to resolve disputes without the need for, and expense of, a full trial. As a consequence, much valuable court time is wasted doing work that could more appropriately be managed by an ADR professional.

Research indicates that up to 80% of cases settle in England and Australia, while analysis of the statistical data provided for this review indicates that in excess of 95% of cases do not proceed to full trial in Cyprus. The Mayor's and City of London Court Mediation Scheme report of 2012, which reviewed the first five years of the scheme, reported encouraging results, with 66% of cases successfully mediated on referral by the court.

These figures demonstrate that, despite initiating court proceedings, litigants are still far more likely to settle their disputes rather than proceed to full trial. Given that speedy resolution of disputes is in

¹¹² Article 5 of Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013.

the best interests of all parties, including the courts, the use of mediation should be promoted by the courts in applications where settlement is a likely outcome. In the UK and Ireland, the rules of court make provision for the court to refer cases to mediation. In Malta, failure to collaborate with the mediation process may result in additional costs being incurred.

Recommendation 16

Courts should actively encourage mediation in cases where settlement is considered to be a likely outcome. The Rules of Court should be amended to make provision for the court to refer cases to mediation.

4.2.7 Judicial Assignments

District Judges are currently assigned on a two-year basis to a specific court and business. It was argued that the requirement to acquire expertise and to practice in one area of law, e.g. civil, for such a short period and then to move to a different type of business, e.g. criminal, created difficulties. For example, it was argued that a judge cannot necessarily build up sufficient expertise in one area before being moved to another area of work. The current system can also create discontinuity and lead to inefficiency when cases are ongoing at the time of the transfer of judges, not least because continuous hearings are not currently the norm in Cyprus. An argument for the creation of divisions is that the permanent assignment of judges to specialised courts dealing with civil, criminal, family law would be the most appropriate way to develop specialist expertise and could ensure that judges would be assigned to areas of work in which they have a particular interest and competency. Therefore, the possible establishment of permanent divisions was mooted as a possible solution to these problems.

There was a wide range of views expressed to the Review Team as to the benefits or otherwise of such an arrangement. It is accepted that judges, depending on their assignment, need to acquire, maintain, and apply a level of specialist expertise in the particular area of law relevant to that assignment. However, the number of judges in Cyprus is relatively small, and by international standards they serve in a relatively small judicial system. It is particularly important that maximum flexibility in the use of judicial time is maintained in such a system. In Ireland, all judges operate as generalists. While many are allocated for extended periods of time to specialised lists, they are also considered to be a fully flexible resource and may be assigned to any type of case appropriate to their jurisdiction. This flexibility allows the courts to adapt to changing levels of caseload, or to address delays in different areas, by adjusting the judicial resources assigned accordingly. The Review Team also noted the view expressed in the Erotocritou Report that certain special jurisdiction courts have not operated as had

been expected, which could lend further weight to the argument that the creation of specialist structures may not always achieve the best result.

The Review Team therefore considers that the introduction of permanent divisions in the District Courts in Cyprus would not be conducive to maintaining the level of flexibility now required to address the serious challenges that face the courts. At the same time, the application of a less formulaic or rigid approach to the current two-year rota of assignments at district court level would overcome some of the practical problems now being experienced. Similarly, the implementation of continuous hearings should alleviate some of the difficulties that can be currently experienced at the time of transfer of judges.

Recommendation 17

Modify the current two-year rota system to ensure that judges rotate at different times in the cycle, thus ensuring that there is continuity of expertise and input to trials. Make the development of expertise in specific areas part of the continuing professional development programme for judges.

Judicial Training

The Review Team welcome the establishment of the Judicial Training School and make the following specific recommendation to be considered in the design of training and development arrangements for the judiciary.

Recommendation 18

Specific training to be provided in:

- the interpretation and application of the Rules of Civil Procedure
- time management
- specialised areas of law, before assignment to a particular business or case.

A system whereby more experienced judges can mentor newly appointed or less experienced judges would also greatly benefit the system of development, and the mentoring programme could be established under auspices of the Judicial School.

Recommendation 19

A mentoring arrangement for new or less experienced judges should be introduced

Court Fees

The payment of court fees to initiate cases is a feature of court systems worldwide. While the basis for the charging of fees may vary somewhat, in most cases applicants pay towards the cost of court proceedings by paying a fee when initiating proceedings.

In Cyprus the collection of fees is mainly undertaken by the Cyprus Bar Association, as opposed to by the courts, through offices located in the District Court Registries. No such office is located in the Supreme Court Building. The fees paid are by way of stamps, which are affixed to the relevant court documents. The type and value of each stamp varies depending on whether it relates to a fee pursuant to the approved schedule of fees, or a related fee such as the advocate stamps or revenue stamps. The affixing of individual stamps to documents is unwieldy and time consuming. It also presents difficulties when the registry staff are checking that the appropriate fee has been paid.

The affixing of the total fee by way of a franking machine, held securely and configured so that only authorised users can operate it, offers a more effective method of fee collection. The division of the revenue between the relevant parties can be undertaken at agreed periods without the requirement to purchase and store valuable stamps, with attendant risk of theft, destruction, and inadvertent shortages. Franking machines may also be supplied, under licence, to practitioners whose volume of business may justify this.

Recommendation 20

Introduce a system of fee collection using secure and appropriately configured franking machines.

Stakeholder Engagement

Regular engagement with key stakeholders and service users is now a feature of many public sector organisations and is considered to be an important way of ensuring that organisations are fit for purpose. This interaction can be facilitated through user groups, representing the entire range of service users, or focused groups such as a bar association or business group. These groups can meet the organisation on a regular basis to discuss issues of mutual interest and concern. In Cyprus, while the Cyprus Bar Association has access to the courts, no broader user groups exist to represent the interests of other users.

Surveys are also regarded as a useful form of user engagement. For example, the 2016 and 2017 EU Justice Scoreboard reports on surveys conducted among court users and legal professionals. It shows that no surveys were conducted in 2014 or 2015 in Cyprus.

The lack of engagement, whether through surveys or user groups, can lead to organisations failing to adapt to the evolving needs and priorities of their service users. In Ireland, where the courts are divided by areas similarly to Cyprus, each area has a local user group representing a broad range of stakeholders, including the legal profession, the police, the prison service, victims' associations and the business community. These groups meet on a regular basis. The feedback from these groups is considered to be an essential tool in ensuring the delivery of appropriate services to users, as well as addressing matters of concern in a structured environment.

Recommendation 21

Following the establishment of the Courts Service of Cyprus, user groups should be established by the Service in each district to provide a forum for the discussion and resolution of matters of mutual concern.

4.2.8 Other

It should be noted that the Review Team does not make specific recommendations in some areas that were highlighted during the review.

The low level of court fees was highlighted to the Review Team as a possible contributory factor in the high level of litigation. The team conducted an analysis of fees in comparable jurisdictions and concluded that court fees in Cyprus are broadly in line with those in comparable jurisdictions such as Ireland and New Zealand. Court fees have also recently been increased in Cyprus. Hence no recommendation is made in this area.

4.3 The Rules of Civil Procedure

As noted at 2.2.5, a separate project has been established, with the support of EC SRSS, to undertake a comprehensive review and reform of the Rules of Civil Procedure. While a comprehensive review of the rules of court was not within the purview of this functional review, it was agreed that targeted issues relating to the Rules and relevant to the public administration of the courts would be identified.

As pointed out by Kyriakides,¹¹³ the Rules of Civil Procedure in Cyprus require fundamental and systematic attention. Changes to individual rules will not be sufficient, not least because such changes lead to a cascade effect whereby a change to any one rule can affect many others. Therefore, we welcome the review of the Rules that is now the subject of a separate TA project. The comments that follow are made on the understanding that a comprehensive review of the rules will now take place and are not to suggest that piecemeal changes to individual rules will be sufficient.

The Review Team met formally with members of the IPA team carrying out the aforementioned technical assistance project on the revision of the Civil Procedure Rules, which was just commencing as the current functional review was concluding. The purpose of the meeting was to brief the team members from the Rules project on the functional review and to draw attention to specific aspects of the Rules that, in the view of the Review Team, would merit attention insofar as they impact on the current and future efficiency of the management and administration of the courts, and would therefore contribute to the Rules project. In the light of our analysis we draw attention to the following specific issues.

Order 30

The recent amendments to Order 30 include a provision to issue directions for the exchange of evidence in writing in lieu of oral evidence. However, the elimination of oral evidence applies only to cases below €3,000 and does not apply to the large volume of cases initiated prior to the introduction of the revised order.

Consideration could be given to extending the provisions of the amended Order 30 to apply retrospectively to the trial of cases filed prior to the amendment and also potentially to cases in excess of €3,000. Currently O.30 provides that the provisions of rules 5 (1) and (2) can only be applied with the agreement of the parties.

Other Areas to be Considered

The rules (reference to the relevant order and rule is included as appropriate) could provide for:

- Where a trial date is given it cannot be adjourned, unless there are pertinent and cogent reasons (Order 33).

¹¹³ Civil procedure reform in Cyprus: looking to England and beyond by Nicolas Kyriakides, Oxford University Commonwealth Law Journal 2016 <http://dx.doi.org/10.1080/14729342.2016.1276768>.

- The use of ADR to divert cases, particularly small claims, through quicker less costly channels (Order 30).
- The imposition of penalties or sanction on lawyers or parties who do not comply with court orders, contribute to delay in court proceedings, or waste the time of the court (Order 30).
- The introduction of timeframes for the completion of each phase of the case. Order 30 currently contains specific timeframes for certain actions only.
- Introduction of provisions similar to part 36 of the Rules of Civil Procedure in England and Wales, where parties to a case are given the opportunity to settle a case at the early stages of the process, and a portion of the costs may be awarded against the plaintiff if a settlement is rejected and the award after trial is not greater than the settlement offered (Order 22).
- We noted that there appears to be no reference to European Law in the rules.

Potential Impact of the Recommendations of this Review

The recommendations arising from this functional review may lead to a requirement to change the provision of certain rules and should be taken into consideration by the Rules of Civil Procedure project. Particular recommendations that may impact on the rules include:

- The establishment of new arrangements for the hearing of appeals (Order 35).
- Introduction of revised Case Management arrangements (Orders 30- 33).
- Providing for the expanded use of electronic registers. It was noted that the current rules provide for the maintenance of a register of cases lodged in the Supreme Court in manual form only (Order 2 R 12 and Order 62)
- Expansion of the role of the Registrar or Legal Officer in the case management process (Order 30).
- The introduction of Alternative Dispute Resolution, pre -action or pre-trial (Order 30).
- The introduction of continuous hearings.
- The introduction of Digital Audio Recording of court proceedings.
- Proposed new method for payment of court fees.

The E-Justice project must also be integrated and co-ordinated with the forthcoming review of the rules of court. It is likely that there will be significant rule change required as a result of business process reengineering linked to this project. While changes arising must be discussed with the E-Justice project team, based on the Irish experience it is likely that there will be changes to the:

- Process of case initiation and filing.
- Case initiation documents.
- The introduction of electronic registers and signatures.
- Method of payment of fees and fines.
- Pre and post court documentation.
- The format of registers and court files.
- The production of court lists.
- The introduction of an electronic seal.

There is widespread agreement that the Civil Procedure Rules now require a fundamental review and re-writing so as to deliver a less costly, more accessible, and more timely service to parties. This comprehensive review is now taking place. Consideration should be given to the production of standardised written procedures or guidelines to complement the Civil Procedure Rules. Introducing a level of consistency in the interpretation and application of those rules will be fundamental to addressing the problems of inefficiency in the courts.

4.4 Short-Term Measures

While preparing the interim papers in the course of this review, the Review Team identified a number of measures that could be implemented in the short term, with relatively minor resource implications and without negatively impacting on the implementation of final recommendations. We understand that these interim measures have not been implemented to date. These measures are summarised below, and the Review Team considers that their implementation will provide immediate benefit to the courts.

ICT

A number of short-term ICT initiatives can be introduced without, in any way, impacting on the E-Justice project. These are:

- Develop the electronic register currently in use in the Supreme Court to provide statistical data; to categorise cases; prepare court lists; monitor compliance with timeframes, as well as ensuring compliance with the Rules of Civil Procedure. The expanded register, suitably modified, should also be rolled out to the District Court registries. The information on this expanded register would provide the basis of a case tracking system to support the case management judges, pending the introduction of E-Justice.

- Develop the courts website. Currently there is little information on the website which would be of benefit to the public. Procedural guides, as well as appropriate forms, should be available for inspection and download. All court lists should also be published on the website. These documents should also be available at local registries.
- Train staff in the use of office software. At present, those staff who are proficient in the use of office software are mainly self-taught. This does not ensure that maximum benefit is gained from the systems available. It can also lead to many variations in practice. An additional benefit to this training is that it will help to prepare staff for the more extensive use of ICT that will be a feature of E-Justice. A training plan should be devised in conjunction with the Cyprus Academy of Public Administration (CAPA).

Short-Term Recommendation 1

Engage expertise to expand functionality of the electronic register, and other functionality of the current ICT system. Further develop the website and provide staff with training in office software.

Accommodation and Storage

The shortcomings in the accommodation in the courts have been identified throughout the report. Of necessity, many of the solutions are longer term. There are, however, a number of short-term actions that should be taken.

Accommodation deficiencies in Nicosia District Court are longstanding and have been detailed in Chapter 2 of this report. The Erotocritou Report 2016 stated that plans have been in place for 25 years to rectify this situation, and yet no construction has commenced. The establishment of the new Administrative Court means that it will require both registry and court space. At present, the registry space is being provided within the Supreme Court building, where such accommodation was already insufficient.

Document storage, particularly in Nicosia, is woefully inadequate. This poses an inordinate risk to the functioning of the courts, both from the perspective of file management and possible damage or destruction. Court documents should be stored in appropriate accommodation, which mitigate the possibility of flood or fire damage. This is particularly the case in a system where there is no electronic case management system. The same holds true for the registers which, again given the absence of an official electronic version, should be stored in fireproof cabinets.

While noting the intention to construct a new District Court complex for Nicosia, there is concern at the delay in commencing this project. The Review Team is strongly of the view that, as a temporary solution, accommodation should be sourced from within available state buildings or rented from the private sector, pending the completion of the proposed project.

Short-Term Recommendation 2

Appropriate court, registry and document storage should be sourced as a matter of urgency for Nicosia District Court.

Director of Reform and Training

A recurring theme in the interim papers prepared by the Review Team was the lack of appropriate support for the Director of Reform and Training. While all requests for assistance and information from the Review Team were responded to, the lack of support available to the Director during the functional review posed difficulties for the Director in seeking to meet requests within deadline. At present, the Director is the only full-time resource dedicated to support the courts reform projects. Further support must be provided as a matter of urgency as this general reform project now moves towards the implementation phase. In the section below dealing with change management we make specific recommendations about the precise type of support structure that must be put in place. This is included here as a short-term recommendation because of the urgency of appointing staff resources to support implementation.

Short-Term Recommendation 3 - Part 1

Appoint appropriate support, dedicated to the implementation of recommendations from this reform project, to the office of the Director of Reform and Training. Details of the structure for support are set out in Chapter 5.

E -Justice

The Review Team fully support the development and introduction of the E-Justice system and wish to reiterate the need for a coordinated approach to that project. It is critically important that inefficient processes and procedures are not simply automated, but that any relevant changes or actions following the recommendations of this review are taken into account in the design of the system.

4.5 Conclusion

We believe that the foregoing recommendations, if implemented, will represent a comprehensive approach to addressing many of the fundamental deficiencies identified in the current management, administration and procedures of the courts. Addressing the backlog of cases is a critical first step, which will create the conditions for the courts in Cyprus to return to a normal level of operations. However, it is also important that new management systems and structures are put in place to ensure that similar problems do not arise in the future, and that planning, budgeting, staffing, and engagement with other key projects is put on a more professional and systematic footing.

Development of a more efficient case management system, as well as initiatives proposed to make more productive use of judicial and courtroom time, should also help to improve the efficiency of the courts. It is important that the appropriate and necessary structures are now put in place to support the implementation of these reforms, and it is to this topic we now turn our attention.

Chapter 5

Implementation and Conclusions

5.1 Introduction

In this chapter we set out the key resources required for implementation and a description of implementation structures. We also refer to the costs and benefits related to implementation and provide a detailed action plan together with indicative timelines.

5.1.1 Change Management

As has been noted throughout this report, a number of previous reviews and studies have identified critical problems in the management and operations of the courts system in Cyprus. However, despite this critical analysis, progress in implementing change and reform has been exceedingly slow, with the result that the problems, and the delays in the courts, have just got worse. Therefore, serious and detailed attention must now be given to implementing the recommendations from this report, and management of change will be critical.

While in the discussion below we focus on the resources and processes required to make progress in the short-term and medium-term, it is important also to recognise that reform of the courts is an ongoing process. Once established, the new Courts Service of Cyprus will ultimately take responsibility for driving ongoing change and development in the courts system. In Ireland, the independent Courts Service drives organisational reform, a role which is complemented by the permanent and independent Law Reform Commission, which has a key responsibility for driving legal reform.

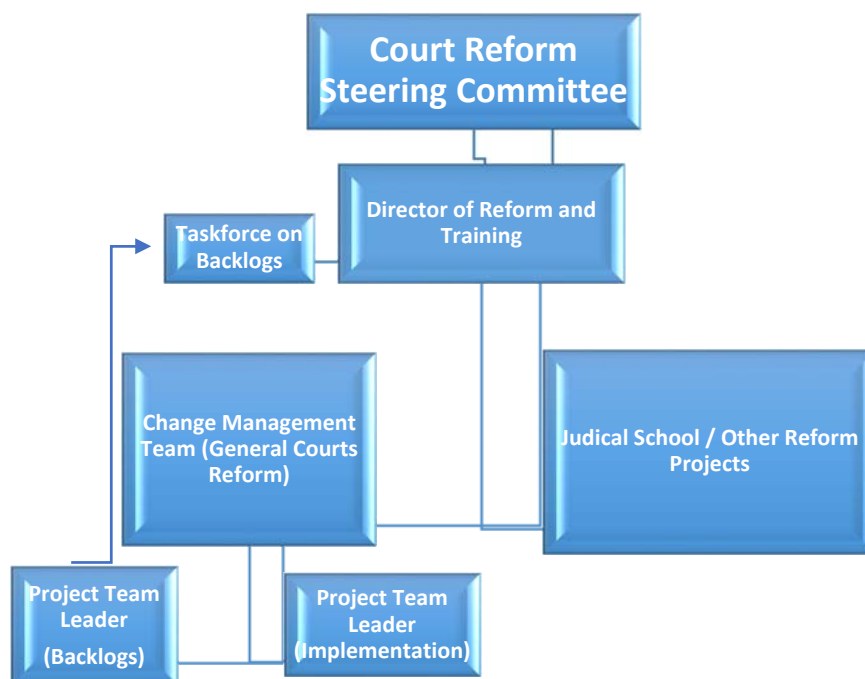
Resources for Implementation

We consider that the following resources for implementation will be required. While the Courts Reform Steering Committee will play a vital role in overseeing the process of implementation of recommendations, that Committee also has a role in a number of other reform projects. Therefore, in order to ensure that there are continuous and fully dedicated resources assigned to the implementation of the recommendations of this report, and to ensure that the structures for change and reform remain coherent and do not become fragmented, we recommend that the various full-time resources that now must be dedicated to the implementation of our recommendations, including to the Taskforce dealing with the backlog, be established within a specific change management team within the Office of the Director of Reform and Training. To ensure that specific focus is maintained

on the implementation of the recommendations from this report, we recommend that, in addition to the project team leader assigned to the Taskforce, one full-time project team leader should be assigned within the Office to operationalise the other recommendations of this report. This project team leader should also be supported by at least two administrative staff. We set out in the diagram below (Figure 8) the overall structures for oversight and implementation of the recommendations. Note that the diagram sets out some specific aspects of the structures required for addressing the implementation of recommendations in this report, and as part of this reform project, but the resources required within the Office relating to the Judicial School and other aspects of reform must be defined separately by the relevant projects.

The project team leaders assigned to the Reform Team will need to work closely with the CEO and the management team of the newly established Courts Service of Cyprus. We envisage that the project leaders will continue to be a critical resource to the Courts Service for a number of years, until the Courts Service establishes its own internally capacity for change management. We have noted earlier in this report our concern that adequate resources have not yet been dedicated to the reform of the courts, specifically to the office of the Director of Reform and Training. If the implementation of recommendations from this report are to have any chance of success, these resources must now be appointed as a matter of urgency so that work on implementation can commence immediately.

Figure 8 – Structures for Oversight and Implementation of Recommendations



Project Plan

As noted earlier at 5.2.1, a specific project plan must be established for clearing the backlog of cases. A project plan must also be established for the implementation of all other recommendations in this report, based on the Action Plan set out below. The team assigned to implementation should already have skills in change and project management, or engage in training in these areas at the outset.

While the precise timelines for clearing the backlog need to be established following analysis, as discussed at 5.2.1, we envisage that all other recommendations be substantially progressed or completed by end-2020. While this is an ambitious timescale, and is subject to certain potential constraints as set out in the Action Plan, we believe that a more extended implementation period could result in a loss of momentum. The reform team will progress the implementation of the recommendations over the next number of years.

The Reform Team will play an absolutely critical role in ensuring the effective implementation of the recommendations, and again we emphasise the importance of resources being provided now to the Reform Team as a matter of urgency. The team will also need the support of the Courts Reform Steering Committee, and buy-in from judiciary, staff, and other key stakeholders. In terms of operationalising the recommendations, we recommend that, as a first step, the Reform Team commence a round of discussions with all of the key stakeholders. The set of recommendations and Action Plan from this report can be used to set the agenda for these discussions. Based on these discussions, the detailed project plan/s, together with detailed timelines, resources and responsibilities, should be drafted. This will provide the basis for further operationalising the Action Plan. External expertise may need to be contracted by the Reform Team to assist with the process, particularly with regard to advising on project governance and certain aspects of implementation.

The detailed project plan should be subject to formal review at regular intervals, e.g. every three months. The Courts Reform Steering Committee should be involved in this detailed review and in helping to address any obstacles that may arise. The project plan should be updated through the formal process of the Reform Team submitting any proposed changes to the Courts Reform Steering Committee, where any changes can be discussed and formally agreed.

The Reform Team will need to identify and manage risks and obstacles to change, including as they arise during the project. Therefore, the project plan will need to be a dynamic document and include

clear review points and progress against plans. An Action Plan for the implementation of the proposed changes recommended above is set out at below.

Short-Term Recommendation 3 – Part 2

A dedicated team to be put in place in the Office of the Director of Reform and Training, with two full-time project team leaders (one to manage the project on backlogs, the other to manage the implementation of other reforms) and supporting administrative staff, to oversee and implement the recommendations from this Functional Review and the actions set out in the Action Plan

5.1.2 Costs and Benefits

While it is not possible to provide detailed costings of implementation measures in this report, not least because this depends on a number of variables that are not yet known, e.g. the number of temporary judges required to clear the backlog or the complexity of cases. We anticipate that much of the cost will be incurred in the transition and implementation phase, and that implementation of our recommendations will yield net savings in the medium and long-term. We also would envisage that the reform team, and specifically the project team leaders, will be in a position to work up detailed costings, based on current salary costs, etc., for the projects associated with implementation.

In general terms, however, we make the following points with regard to costs and benefits.

Costs

1. Many of the costs will be incurred during the transition and implementation phase. This will be necessary in order to return the courts to normal working and to implement the structures required to modernise the courts system.
2. Transition/implementation costs will include the following costs:
 - resourcing the Office of the Director of Reform and Training, including two full-time project team leaders and administrative staff and office space, overheads, etc
 - the cost of hiring a temporary panel of judges to clear the backlog at District Court level
 - establishing the review of the appeals process and implementing recommendations from that review
 - establishing Courts Service of Cyprus, including appointing new CEO and management team
 - establishing the proposed new case management process

- introducing Digital Audio Recording in courtrooms
 - introducing franking machines to replace stamps
 - Judicial and staff training
 - ICT and other costs associated with implementing short-term measures, including storage, temporary courtroom facilities, and accommodation.
3. Apart from the recommendations regarding the CEO and management team of the Courts Service, at this point we have not recommended any specific longer-term changes to staffing structures. The reason for this is that, as pointed out earlier, the system must be first restored to normal operations (as opposed to the current crisis mode of operations) before a proper assessment of staffing can be made. This is most appropriately done by the new CEO of the new Courts Service, who, having reviewed the needs of a normally operating courts system, will propose the specific complement of staff, and mix of expertise, required for future operations.
 4. For similar reasons, we do not make specific recommendations on the number of judges required. Again, that must also be assessed in the context of normal operations (with backlogs cleared), more efficient procedures and supporting ICT, and implementation of other recommendations aimed at freeing up judicial time. We also note that where additional judicial resources have been requested in the past, these have generally been granted. In relation to appeals, and assuming some revision to the appeals structure, we envisage that the current complement of Supreme Court judges be maintained until the backlog of appeals has been cleared.
 5. While at this stage we do not recommend long-term changes to staffing numbers pending the more detailed work that needs to be done on the establishment of the Courts Service, we have recommended that dedicated personnel must be devoted to implementation of reforms, mainly in the Office of the Director of Reform and Training. However, it must also be recognised that the implementation of reforms will also place a burden on staff and the judiciary. For example, members of the judiciary will have to devote time to working on the Oversight Group as part of the taskforce on the backlog. In that context, where a business case is made by the courts for more staff or judicial resources based on the time now needed to devote to implementation of reforms, this should be met with a positive response, as this is an inevitable feature of the implementation of such major reforms.

Benefits

1. The potential benefits of implementing the recommendations in this report are very significant. Based on the various measures used to measure performance, including delays, Cyprus can look

forward to improving performance to at the least the level of the average performers in the EU, as measured by the EU Justice Scoreboard. Cyprus will improve its profile as a place to do business. The benefits to all stakeholders, including judiciary, lawyers and courts users, will be both visible and real. In particular, in an inefficient system it is often the weaker and most vulnerable court users who are at most disadvantage, and this situation can be redressed.

2. It should be noted that since the establishment of the Courts Service in Ireland, the level of staffing has fallen from 1,030 in 1999, to 976 in 2016, while by 2017 the Courts Service had recorded a 52% decrease in day-to day-running costs compared to 2008. Of this saving, €5.5 million was attributed to the increased use of ICT systems.¹¹⁴
3. While potential cost efficiencies are not of the same order in Cyprus, implementation of reforms can still yield significant savings.

5.1.3 Action Plan

In this section we set out an action plan to guide and support the operationalising of the recommendations. The action plan sets out, under each of the key themes, the key actions required for implementation, together with suggestions on the proposed timescale for commencing implementation of each action (indicated by the key 'Y' in the relevant column). Generally, and as is relevant, the actions under each recommendation are set out in the sequence of implementation. Where there are critical risks or dependencies associated with the actions, these are also listed. A consolidated list of recommendations is at Appendix H

¹¹⁴ Courts Service News 4th December 2017

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|--|--|-----------------------------|-------------------------------|------------------------------|---|
| Clear Backlog 1 | Establish a task force supported by a dedicated project leader and project team to address the backlog in the Supreme Court the District Courts and the Industrial Disputes Court | Establish the Oversight Group Appoint a project team leader Appoint administrative support | Court Reform Steering Committee (CRSC) | Yes (Y) | | | Support of Ministry of Finance (MOF) and Ministry of Justice and Public Order (MOJPO) |
| | | Agree the terms of reference | CRSC | Y | | | |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|----------------|---|---|-----------------------------|-------------------------------|------------------------------|--|
| | | Prepare a project Plan with clear timelines and costings | Project team leader/CRSC | Y | | | Lack of Project management |
| | | Appoint panel of judges to clear the backlog Commence clearance of backlog | CRSC/Oversight Group Oversight Group/Temporary Panel | Y | Y | Y | Resources not provided Resistance from stakeholders |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|--------------------------|----------------|-----------------------------|-------------------------------|------------------------------|--|
| 2 | Establish a Review group to specifically investigate the introduction of revised arrangements for the hearing of appeals including the establishment of a second tier Court of Appeal. | Establish Review group | CRSC | Y | | | Support of MOF MJPO and Cyprus Bar Association (CBA) |
| | | Agree Terms of reference | CRSC | Y | | | |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|----------------|--|----------------|-----------------------------|-------------------------------|------------------------------|--|
| | | Conduct review within agreed timelines | Review Team | | Y | | Appropriate legal and secretarial support not provided |
| | | Make recommendations for the revised arrangements for the hearings of appeals and report to CRSC | Review Team | | Y | | |

| | | | | | | | |
|---|--|---|--------------------------|---|--|--|---|
| Management structure 3 | Establish the Courts Service of Cyprus as an independent statutory body to undertake all aspects of management, administration and support to the courts The Service will be governed by a Board with a judicial majority chaired by the President of the Supreme Court with representation from key stakeholders | Draft the statutory framework for the new service including composition and role of board | Attorney General MJPO | Y | | | Support of government and MOF/MJPO required Appropriate legal and secretarial support not provided |
| | | Enact the legislation | Parliament of Cyprus | Y | | | Political support for reforms |
| | | Establish the Board | Government of Cyprus | Y | | | |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|--|---|-----------------------------|-------------------------------|------------------------------|------------------------------|
| 4 | Establish an organisational and management structure for the new Courts Service of Cyprus, headed by a Chief Executive Officer and supported by 2 Senior Managers / Heads of Division, with two distinct areas of responsibility - Court Operations and Court Support Services. | Agree role profile and terms of contract for Chief Executive Officer and Heads of Divisions Recruit and appoint CEO | MOF – Public Administration and Personnel Department (PAPD) | | Y | | Resources |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|----------------|----------------------------|----------------|-----------------------------|-------------------------------|------------------------------|------------------------------|
| | | Appoint Heads of Divisions | PAPD/CEO | | y | | |

| | | | | | | | |
|---|--|--|----------------------------|--|---|--|---|
| 5 | Newly appointed CEO and management team to take responsibility for developing strategies and plans for the courts service to cover, inter alia, accommodation and security; risk management; staffing numbers; staff training and development; ICT; financial and budgetary strategy; supports to the judiciary, the public and all court users. | Develop strategy and plans for the new Cyprus Courts Service | CEO/ Management Team | | Y | | Delay in appointing CEO and Management Team |
|---|--|--|----------------------------|--|---|--|---|

| | | | | | | | |
|---|---|--|------------------------------|----------|--|--|--|
| <p>Case Management</p> <p>6</p> | <p>Assign a case management judge(s) in each district to manage cases to trial, to allocate cases to hearing and to ensure consistency in the application of rules, procedures and practice directions.</p> <p>The new procedures should be made publicly available</p> | <p>Assign responsibility within the Supreme Court to progress this recommendation in conjunction with the Administrative Presidents</p> <p>Draft and agree new case management procedures</p> <p>Publish on website and make available in public offices in registries</p> | <p>Supreme Court (SC)</p> | <p>Y</p> | | | <p>Responsibility not assigned</p> <p>Rules change may be required</p> <p>Resistance from key stakeholders</p> |
| | | <p>Establish case management list</p> | <p>SC and Administrative</p> | | | | <p>Responsibility not assigned</p> |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|----------------|-----------------------------------|-----------------------------|-----------------------------|-------------------------------|------------------------------|--|
| | | and assign judge in each District | Presidents in each District | Y | | | Rules change may be required Resistance from key stakeholders |

| | | | | | | | |
|---|---|---|-----------------------|---|--|--|---|
| 7 | With the implementation of E-Justice, and prior to that with some enhancement of existing ICT system, to introduce case categorisation, tracking, and monitoring systems to support the streaming of cases, monitoring compliance with orders and protocols, and managing the central allocation of cases to hearing. | Assign responsibility for introduction to a designated judge and senior registrar Develop case management system | Supreme Court CRSC | Y | | | Responsibility not assigned Rules change may be required Resistance from key stakeholders Successful implementation of E-Justice |
|---|---|---|-----------------------|---|--|--|---|

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|--|----------------|-----------------------------|-------------------------------|------------------------------|--|
| 8 | Introduce a system of continuous hearings | Introduce as part of new case management procedures | Supreme Court | Y | | | Rules change may be required Resistance from key stakeholders |
| 9 | Criminal summons cases should not be entered in the court list until service is effected. | Review Criminal Procedure Rules and amend if necessary | Supreme Court | | | | Failure to agree rule change |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|-----------------|----------------|-----------------------------|-------------------------------|------------------------------|------------------------------|
| Judicial Time Management 10 | The Supreme Court should consider reducing the composition of the appeals bench to three judges for all administrative appeals | | Supreme Court | Y | | | Legal constraints |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|---|-----------------------|-----------------------------|-------------------------------|------------------------------|---|
| 11 | The roles of Registrars and Legal Officers should be expanded to include dealing with routine procedural matters, research and drafting judgements | Define this role as part of the revised case management process | Supreme Court CRSC | Y | | | Rules change may be required Resistance from staff or key stakeholders |
| 12 | The composition of interview boards for judicial appointments should be reduced. | Revise constitution of future interview boards | Supreme Court | Y | | | Failure to agree revision Possible legal impediment to change |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|---|--------------------------------------|-----------------------------|-------------------------------|------------------------------|------------------------------|
| 13 | Judges should be provided with modern ICT hardware, software and appropriate training and support Access to online legal databases and resources should be facilitated | Make arrangements to provide ICT support Restore or provide access to online resources | Supreme Court Ministry of Finance | Y | | | Available resources |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|--|----------------|-----------------------------|-------------------------------|------------------------------|---|
| 14 | Introduce digital audio recording (DAR) of court proceedings | Examine DAR as an alternative to stenotyping | Board/CEO | | Y | | Resistance from staff, judiciary and key stakeholders Courtroom infrastructure Rules change may be required |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|--|---|---------------------------------------|--------------------------------------|-----------------------------|-------------------------------|------------------------------|--|
| Alternative Dispute Resolution 15 | Introduce ADR mechanisms in consumer disputes and injuries assessment cases as an alternative to issuing court proceedings. | Identify and introduce ADR mechanisms | Ministry of Justice and Public Order | | Y | | Resistance from key stakeholders Failure to consider or progress recommendation |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|--|----------------|-----------------------------|-------------------------------|------------------------------|---|
| 16 | Courts should actively encourage mediation in cases where settlement is a likely outcome. The Rules of Court should be amended to make provision for the court to refer cases to mediation. | Draft and agree the role of ADR in the case management process | Supreme Court | | y | | Rule change will be required Lack of unified approach by the judiciary Resistance from key stakeholders |

| | | | | | | | |
|----|--|--|---------------|--|---|--|--|
| 17 | <p>Modify the current two-year rota system to ensure that judges rotate at different times in the cycle, thus ensuring that there is continuity of expertise and input to trials.</p> <p>Make the development of expertise in specific areas part of the continuing professional development program for judges.</p> | <p>Introduce a staged rota system</p> <p>Develop CPD Programme for judges as part of Judicial School</p> | Supreme Court | | Y | | <p>Resistance from District Court Judiciary</p> <p>Resourcing of Judicial School</p> |
|----|--|--|---------------|--|---|--|--|

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|--|--------------------------|-----------------------------|-------------------------------|------------------------------|------------------------------|
| Judicial Training 18 | Training in: <ul style="list-style-type: none"> - the interpretation and application of the Civil Procedure Rules - time management - targeted areas of law as required before or during an assignment of a judge to a specific court, list or type of case | Develop and deliver appropriate training courses | Judicial Training School | | Y | | Failure to provide resources |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|--|---|-----------------------------|-------------------------------|------------------------------|--|
| 19 | A mentoring arrangement for new or inexperienced judges should be introduced | Develop and implement a mentoring scheme | Supreme Court | | y | | Supreme Court fail to consider and progress recommendation |
| 20 | Introduce a system of fee collection using secure and appropriately configured franking machines | Specify system Procure and install | CRSC in collaboration with Cyprus Bar Association | | | | Resistance from stakeholders |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|---|---|--|-----------------------------|-------------------------------|------------------------------|---|
| 21 | Following the establishment of the Courts Service of Cyprus, that the Courts Service should establish user groups in each district to provide a forum for the discussion and resolution of matters of mutual concern. | Establish pilot in one district Assess pilot and extend to all districts | CEO/ Head of Operations Administrative Presidents | | | y | Successful establishment of new courts structures |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|--|--|---|----------------|-----------------------------|-------------------------------|------------------------------|---|
| Short-Term Measures 1 | Engage the expertise to expand the electronic register, populate the website and train the staff. | Identify and Retain ICT expertise | CRSC/MoF | y | | | Failure to engage expertise |
| 2 | Appropriate court, registry and document storage should be provided as a matter of urgency for Nicosia District Court. | Assess requirements Source from within current state buildings or rent from private sector | CRSC | Y | | | Failure to provide resources to source appropriate temporary accommodation or storage |

| Theme and Recommendation ID | Recommendation | Related Actions | Responsibility | Short Term (First 6 months) | Medium Term (First 18 months) | Longer Term (18 – 48 months) | Dependencies /Critical Risks |
|-----------------------------|--|---------------------------|----------------------|-----------------------------|-------------------------------|------------------------------|--|
| 3- Part 1 and 2 | Appoint appropriate support, to be dedicated to the reform project, to the office of the Director of Reform and Training | Recruit and appoint staff | SC/ CRSC MJPO/MOF | y | | | Support not provided Reform Project unable to continue due to lack of support |

5.1.4 Conclusion

There is no doubt that the courts system in Cyprus is currently beset by many serious problems. As noted earlier, these have not arisen just recently, but rather have developed over many years. In many respects these problems have been allowed to develop through an absence of ongoing review, change and reform. The capacity to adapt is critical in any organisation, and this is also true of the courts system, where over time the needs of citizens, of the economy, and of society, change sometimes in very fundamental ways.

The courts system in Cyprus now finds itself in many respects out of step with the demands and needs of modern society. However, a number of recent proposals for change, including the proposal to establish a Commercial Court, are welcome. There are also now a number of critical reforms projects being implemented or under way, including in relation to the establishment of the Judicial School, the reform of the Rules of Civil Procedure, and the E-Justice project.

This functional review has focused on the management, governance, administration and processes of the courts. We believe that implementing the recommendations in this report will mark a new and positive departure for the courts system in Cyprus and will yield major benefits. We do not at all underestimate the effort and resources now required to implement the recommendations, but we are confident that the potential benefits far outweigh the short-term effort and costs.

The critical issue now is whether there is a willingness to now embrace the change that will inevitably arise from our recommendations. Failure to do so will represent a missed opportunity and defer the actions that are inevitably required to successfully adapt the system to meet the needs of today and tomorrow.

Appendix A – Key Components from the Terms of Reference (ToR)

COMPONENT 1: CARRY OUT A IN DEPTH FUNCTIONAL REVIEW OF THE OPERATIONS AND EFFICIENCY OF THE SUPREME COURT (including short focussed progress paper)

Component 1.1: A review of the administrative processes and procedures of the Supreme Court with a view to enhancing the support provided to the judicial process.

CONCEPT: IPA will undertake a critical examination of the administrative processes and procedures of the Supreme Court in order to identify strengths and any shortcomings and make recommendations on how this may need to change if the Supreme Court is to effectively fulfil its central role. It is not intended that the review will analyse or comment on the administration of justice by the Cypriot judiciary.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review the administrative process and procedures of the Supreme Courts;
3. Compare administrative process and procedures of the Supreme Courts with those in selected jurisdictions including those from other Member States¹¹⁵ as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report. IPA will invite comments and observations on its draft report.

Component 1.2: A review of the organisation and allocation of work within the support office

CONCEPT: IPA will undertake a review of the organisation and allocation of work of the Supreme Court in order to make recommendations on how this may need to change the Supreme Court to effectively fulfil its central role.

¹¹⁵ Workshops to be organised as appropriate

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review the organisation and allocation of work administrative process of the Supreme Courts;
3. Compare organisation and allocation of work of the Supreme Courts with those in other selected jurisdictions including those from other Member States¹¹⁶ as appropriate ;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 1.3: A review of current case management processes and linkage with courts of first instance

CONCEPT: IPA will undertake a critical examination of the Supreme Court case management processes and linkage with courts of first instance in order to identify strengths and any shortcomings and make recommendations on how this may need to change the Supreme Court to effectively fulfil its central role.

METHODOLOGY/MEANS¹¹⁷:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current case management processes and linkage with courts of first instance;
3. Compare case management processes and linkage with courts of first instance with those in other selected jurisdiction including those from other Member States as appropriate;

¹¹⁶ Workshops to be organised as appropriate

¹¹⁷ Workshops to be organised as appropriate

4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 1.4: A review of the supports provided to the Supreme Court Judiciary

CONCEPT: IPA will undertake a critical examination of the supports provided to the Supreme Court Judiciary Supreme Court in order to identify strengths and any shortcomings and make recommendations on how this may need to change the Supreme Court to effectively fulfil its central role.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current supports provided to the Supreme Court Judiciary;
3. Compare supports provided to the Supreme Court Judiciary with those in other selected jurisdiction including those from other Member States as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 1.5: A review of facilities and information provided to court users and the public

CONCEPT: IPA will undertake a critical examination of the facilities and information provided to court users and the public in order to identify strengths and any shortcomings and make recommendations including on the development of online platform on how this may need to change the Supreme Court to effectively fulfil its central role.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current facilities and information provided to court users and the public;
3. Compare facilities and information provided to court users and the public with those in other selected jurisdiction including those from other Member States as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations.

Component 1.6: A consideration of options to improve efficiency and service delivery

CONCEPT: IPA will identify and examine options for further sustainable and robust improvements to enhance the efficiency and service delivery, in order to allow recommendations for future action in this regard.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the current efficiency and service delivery of the Supreme Court;

3. Compare service delivery and efficiency with other Member States¹¹⁸ jurisdictions as appropriate with the aim of suggesting areas for possible improvement/development;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short interim paper/ progress report summarising key issues identified;
6. Main issues will be introduced in the draft final report and preliminary advises;
7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

COMPONENT 2: CARRY OUT AN IN-DEPTH FUNCTIONAL REVIEW OF THE OPERATION AND EFFICIENCY OF THE DISTRICT COURTS including short focussed progress report

Component 2.1: A review of the administrative processes and procedures of the District Court and other courts of first instance with a view to enhancing the support provided to the judicial process

CONCEPT: IPA will undertake an identification and examination of administrative processes and procedures of the District Court to identify strengths and any shortcomings and make recommendations on how this may need to change the District Court to effectively fulfil its central role. It is not intended that the review will analyse or comment on the administration of justice by the Cypriot judiciary

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the current administrative processes and procedures of the District Court;

¹¹⁸ Workshops to be organised as appropriate

3. Compare with the objective of suggesting improvements on the administrative processes and procedures of the District Court with those in other selected Member States¹¹⁹ jurisdictions as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 2.2: A review of the organisation and allocation of work within the support office

CONCEPT: IPA will undertake an identification and examination of the organisation and allocation of work within the support office to identify strengths and any shortcomings and make recommendations on how this may need to change the District Court to effectively fulfil its central role.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the organisation and allocation of work within the support office;
3. Compare with the objective of suggesting improvements on the organisation and allocation of work within the support office with those in other selected common law jurisdictions;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.

¹¹⁹ Workshops to be organised as appropriate

7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 2.3: A review of current case management processes

CONCEPT: IPA will identify and examine the current case management processes to identify strengths and any shortcomings and make recommendations on how this may need to change the District Court to effectively fulfil its central role.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the current case management processes;
3. Compare to improve current case management processes with those in other selected Member States¹²⁰ jurisdictions in order to identify possibilities for improvement;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.
7. IPA will invite comments and observations on its draft final report
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 2.4: A review of the supports provided to the District Court Judiciary

CONCEPT: IPA will identify and examine the current support provided to the District Court to identify strengths and any shortcomings and make recommendations on how this may need to change the District Court to effectively fulfil its central role.

¹²⁰ Workshops to be organised as appropriate

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the current support provided to the District Court;
3. Compare to improve the supports provided to the District Courts with those in other selected common law jurisdictions;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.
7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 2.5: A review of facilities and information provided to court users and the public

CONCEPT: IPA will identify and examine the facilities and information provided to court users and the public to identify strengths and any shortcomings and make recommendations on how this may need to change the District Court to effectively fulfil its central role.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant reports, legislation, publications and statistics;
2. Review current the current facilities and information provided to court users and the public;
3. Compare with the objective of suggesting improvements on the facilities and information provided to court users and the public with those in other selected Member States¹²¹ jurisdictions as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;

¹²¹ Workshops to be organised as appropriate

5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.
7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 2.6: Consideration of options to improve efficiency and service delivery

CONCEPT: Identification and examination of options for further sustainable and robust improvements to improve efficiency and service delivery of the District Courts, in order to allow recommendations for future action in this regard.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current the current efficiency and service delivery of the District Courts;
3. Compare with the objective of suggesting improvements on the efficiency and service delivery with those in other selected Member States jurisdictions as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report;
7. IPA will invite comments and observations on its draft final report;
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

COMPONENT 3: CARRY OUT AN IN-DEPTH FUNCTIONAL REVIEW OF THE MANAGEMENT OF THE COURTS SYSTEMS (including short focussed progress report)

Component 3.1: A review of the current governance, structure, organisation and management of the court system including the relationship with central government Ministries

CONCEPT: IPA will identify and examine the current governance, structure, organisation and management of the court system including the relationship with central government Ministries to identify strengths and any shortcomings and make recommendations on how this may need to change the courts to effectively fulfil its central roles. This could include proposals on filtering, fast tracking and creation of divisions. In the context of public administration of the courts system, the team will take into consideration the recommendations formulated in the 2016 report¹²² of the Supreme Court on:

- The creation of a second tier court of appeal;
- The possible transfer of admiralty Court cases to the district Courts;
- And also the more recent decision to establish a Commercial Court.

It will provide general guidance in view of their operation and implementation which should follow on subsequent to this expert report and decisions that are taken.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review of the current governance, structure and management of the judicial system including the relationship with central government Ministries;
3. Compare current governance, structure and management of the judicial system including the relationship with central government Ministries with those in other selected Member State jurisdictions¹²³ as appropriate;

¹²³ Workshops to be organised as appropriate

4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;
5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.
7. IPA will invite comments and observations on its draft final report.
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

Component 3.2: A review of the current arrangements for the provision of supports to the judicial system:

CONCEPT/MEANS: Identification and examination of the current arrangements for the provision of supports to the judicial system in the field of Operation Management, Finance, Human Resource Management, Information Technology, Estate Management. To identify strengths and any shortcomings and make recommendations on how this may need to change the courts to effectively fulfil its central roles.

METHODOLOGY/MEANS:

1. Desk research – Review all relevant legislation, reports, publications and statistics;
2. Review current arrangements for the provision of supports to the judicial system in the field of Operation Management, Finance, Human Resource Management, Information Technology, Estate Management efficiency and service delivery of justice;
3. Compare with the objective of suggesting improvements the current arrangements for the provision of supports to the judicial system in the field of Operation Management, Finance, Human Resource Management, Information Technology, Estate Management efficiency and service delivery with those in other selected Member State jurisdictions as appropriate;
4. Conduct a series of semi-structured interviews with appropriate personnel, members of the judiciary and other key stakeholders to ascertain the depth and nature of the issues to be addressed and the views of those concerned on how best to address them;

5. Short focussed progress paper summarising initial key issues identified and preliminary advises;
6. Main issues will be introduced in the draft final report.
7. IPA will invite comments and observations on its draft final report
8. The final report will identify critical priorities, identify obstacles to be overcome, highlight risks and make recommendations for practical and achievable solutions to be implemented by the stakeholders in the Cypriot Courts.

COMPONENT 4: ACTION PLAN WITH INDICATIVES TIMELINES FOR SUGGESTED INTERMEDIATE STEPS

CONCEPT: The action plan will present the steps for the implementation of the recommendations together with an indication of the possible consequences of the reform in terms of HR (general staffing levels, skills and capacity) and budget.

METHODOLOGY/MEANS:

IPA will prepare an action plan that will suggest the main actions to be undertaken by the Cypriot courts in order to provide guidance to the Cypriot courts on the specific steps needed to implement the recommendations including target dates and responsibilities.

1. IPA will prepare a draft action plan taking into consideration the analysis and recommendations of the above issues (components 1 to 3)
2. The proposed set of implementation actions will be included in the final report.

Appendix B - List of Participants/ Contributors

Scoping Study: 5th – 8th February 2017

SUPREME COURT

1. Mr. Myron Nicolatos, President, Supreme Court
2. Mr Costas Pampallis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mr George Erotocritou, Former Supreme Court Judge, Project Coordinator/Manager

OTHER COURTS

1. Mr Nicolas Santis, President, Judges Association of Cyprus
2. Mr Melis Tsangarides, Vice-President, Judges Association of Cyprus
3. Mr Charis Boyiadjis, President, District Court, Nicosia
4. Mr Michael Papamichael, President, District Court, Limassol
5. Mr Charis Malachtos, President, District Court, Larnaca
6. Mrs Dora Socratous, President, District Court, Paphos
7. Mr Michael Ambizas, Senior District Court Judge
8. Mrs Marina Papadopoulou, District Court Judge
9. Mrs Lefkia Kammitisi, President, Rent Control Court
10. Mr Soteris Liasides, President, Family Court
11. Mr Joseph Hadjigiovannis, President, Employment Court

PROJECT COORDINATOR / MANAGER

Mr George Erotocritou, Former Supreme Court Judge

COURT REGISTRARS

1. Mr Savvas Kyriacou, Senior Registrar (Administrative), District Court, Limassol
1. Mrs Maria Christodoulou, Senior Registrar (Administrative), District Court, Nicosia
2. Mrs Andriana Malekidou, Registrar A' (Administrative), District Court, Larnaca
3. Mr Matheos Ataliotis, Registrar (Administrative), District Court, Paphos
4. Mrs Marina Eleftheriou, Senior Registrar, Supreme Court
5. Mr Evagoras Hadjidemetri, Registrar A', Supreme Court

OFFICE OF CHIEF REGISTRAR

1. Mrs Irene Christodoulou, Chief Registrar
2. Mrs Artemis Antoniou, Assistant Chief Registrar

LEGAL OFFICERS

1. Mrs Maria Kyriacou, Senior Legal Officer
2. Mrs Natasa Papanicolaou, Legal Officer

PUBLIC ADMINISTRATION AND PERSONNEL OF CYPRUS

1. Mrs Patrina Taramidou, Senior Officer
2. Mrs Polina Mastromichali, Officer

PANCYPRIAN BAR ASSOCIATION

1. Mr Doros Ioannides, Advocate, President
2. Mr Diomides Kallis, Advocate, Vice-President
3. Mr Costas Demetriades, Advocate, Secretary
4. Mrs Koulia Vaki, Executive Director

MEMBERS OF COURT REFORM STEERING COMMITTEE

1. Mr Myron Nicolatos, President, Supreme Court
2. Mr Costas Pampallis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mr George Erotocritou, Former Supreme Court Judge, Project Coordinator/Manager
5. Mrs Phedra Gregoriou, Legal Officer, Ministry of Justice and Public Order
6. Mr Doros Ioannides, Advocate, President, Pancyprian Bar Association
7. Mr Andreas Charalambous, Director for Financial Stability (Representative of Ministry of Finance)

Mission 1: The Supreme Court - 12th -15th June 2017

SUPREME COURT

1. Mr Myron Nicolatos, President, Supreme Court
2. Mr Costas Pamballis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mrs Irene Christodoulou, Chief Registrar
5. Mr George Erotocritou, Former Supreme Court Judge,
Project Coordinator/Manager
6. Mrs Maria Kyriacou, Senior Legal Officer
7. Mrs Natasa Papanicolaou, Legal Officer A'

ADMINISTRATIVE COURT

1. Mrs Marika Kalligerou, President
2. Mr George Serafim, Judge
3. Mrs Andri Shiakalli, Registrar

OFFICE OF CHIEF REGISTRAR

1. Mrs Irene Christodoulou, Chief Registrar
2. Mrs Artemis Antoniou, Assistant Chief Registrar
3. Mrs Marina Eleftheriou, Senior Registrar, Substitute to Chief Registrar

PROJECT COORDINATOR / MANAGER

1. Mr George Erotocritou, Former Supreme Court Judge
2. Mr Michael Ambizas, Senior District Judge, Substitute to George Erotocritou for this
Mission

COURT REGISTRARS - REPRESENTATION

1. Mrs Irene Christodoulou, Chief Registrar
2. Mrs Artemis Antoniou, Assistant Chief Registrar
3. Mrs Marina Eleftheriou, Senior Registrar, S.C. (Appeals from Adm. Court)
4. Mr Andreas Tserkezos, Registrar, S.C. (Admiralty/Civil Applications)
5. Mrs Christiana Crhysostomou, Registrar, S.C. (Appeals Civil/ Criminal)

ACCOUNTANT OF SUPREME COURT

1. Mrs Amalia Pavlidou, Accountant
2. Mrs Maria Zaganou, Assistant Clerical Officer

MINISTRY OF JUSTICE AND PUBLIC ORDER

1. Mrs Phedra Gregoriou, Legal Officer

MINISTRY OF FINANCE

1. Mr Andreas Charalambous, Director of Financial Stability

ICT MANAGER AND E-JUSTICE PROJECT MANAGER

1. Mrs Nota Toumazou, IT Officer A', DITS, Ministry of Finance
2. Mr Artemis Hadjiloizou, IT Officer, DITS, Ministry of Finance
3. Mr Evagoras Hadjidementri, Registrar, S.C.

PUBLIC ADMINISTRATION AND PERSONNEL OF CYPRUS

1. Mrs Patrina Taramidou, Senior Officer
2. Mrs Polina Mastromichali, Officer

PANCYPRIAN BAR ASSOCIATION

1. Mr Doros Ioannides, Advocate, President
2. Mrs Koulia Vaki, Executive Director

MEMBERS OF COURT REFORM STEERING COMMITTEE

1. Mr Myron Nicolatos, President, Supreme Court
2. Mr Costas Pamballis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mr George Erotocritou, Former Supreme Court Judge and Project Coordinator/Manager
5. Mr Nicolas Santis, President, District Court, President, Judges' Association of Cyprus
6. Mr Andreas Charalambous, Director of Financial Stability (Representative of Ministry of Finance)
7. Mrs Phedra Gregoriou, Legal Officer, Ministry of Justice and Public Order
8. Mr Doros Ioannides, Advocate, President, Pancyprian Bar Association

MEMBERS OF SCOPING MISSION

1. Dr Brian Cawley, Former Director General of IPA, Mission Leader
2. Mrs Eirini Georgiopoulou, SRSS, EU

3. Mr. Michael O’Beirne, IPA Associate Consultant and Court Service Expert
4. Ms. Olive Caulfield IPA Associate Consultant and Court Service Expert
5. Mr James Connington, Lecturer of IPA, Ireland
6. Mr Kostis Dryllerakis – ICT – In charge of Digital Policies in the SRSS

Mission 2: The Courts of First Instance, 18th-22nd September 2017

MEMBERS OF COURT REFORM STEERING COMMITTEE

1. Mr Myron Nicolatos, President, Supreme Court
2. Mr Costas Pamballis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mr George Erotocritou, Former Supreme Court Judge, Project Coordinator
5. Mr Nicolas Santis, President, District Court, President, Judges’ Association of Cyprus
6. Mrs Irene Christodoulou, Chief Registrar
7. Mr Andreas Charalambous, Director of Financial Stability (Representative of Ministry of Finance)
8. Mrs Phedra Gregoriou, Legal Officer, Ministry of Justice and Public Order
9. Mr Doros Ioannides, Advocate, President, Pancyprian Bar Association

MEMBERS OF SCOPING MISSION

1. Dr Brian Cawley, Former Director General of IPA, Mission Leader
2. Mrs Eirini Georgiopoulou, SRSS, EU
3. Mr. Michael O’Beirne, IPA Associate Consultant and Court Service Expert.
4. Ms. Olive Caulfield, IPA Associate Consultant and Court Service Expert
5. Mr. James Connington, Lecturer of IPA, Ireland

OFFICE OF CHIEF REGISTRAR

1. Mrs Irene Christodoulou, Chief Registrar
2. Mrs Marina Eleftheriou, Senior Registrar, Substitute to Chief Registrar

PROJECT COORDINATOR / MANAGER

1. Mr George Erotocritou, Former Supreme Court Judge

ADMINISTRATIVE PRESIDENTS DISTRICT COURTS AND SENIOR DC JUDGES - REPRESENTATION

1. Mr Charis Malahtos, Adm. President, DC Limassol
2. Mrs Dora Socratous, Adm. President, DC Paphos
3. Mr Ioannis Ioannides, President, DC Nicosia
4. Mrs Marina Papadopoulou, Senior DC Judge, Nicosia
5. Mrs Lia Markou, Senior DC Judge, Limassol

DISTRICT COURT JUDGES – REPRESENTATION

1. Mrs Sophia Kleopa, Nicosia
2. Mrs Georgia Petasi-Korfioti, Nicosia
3. Mrs Yiota Kythreotou-Theodorou, Nicosia
4. Mr Philippos Timotheou, Limassol
5. Mrs Eirini Demetriou-Panayi, Limassol
6. Mrs Tonia Nicolaou, Larnaca
7. Mrs Anni Pantazi-Lambrou, Larnaca
8. Mr Kostas Satolias, Paphos

ADMINISTRATIVE PRESIDENTS AND OTHER JUDGES OF COURTS OF SPECIAL JURISDICTION

Family Court

1. Mrs Miranda Toumazi, President, Larnaca
2. Mr Sotiris Liasides, President, Nicosia
3. Mr Yiannos Antoniadis, Judge, Limassol)

Rent Control Court

1. Mrs Lefkia Kammitisi, President, Nicosia/Larnaca
2. Mrs Christiana Ragouzaïou, President, Limassol/Paphos

Employment Disputes Court

1. Mrs Eleni Constantinou, Judge, substituting Mr Joseph Hadjijovannis, President.

Military Court

1. Mr Philippos Patsalides, President

NICOSIA DISTRICT COURT

1. Mr Ioannis Ioannides, President, DC Nicosia, substituting Mr Haris Boyiatzis, Administrative President, Nicosia DC
2. Mrs Maria Christodoulou, Administrative Registrar, Nicosia DC

LARNACA DISTRICT COURT

1. Mrs Lena Demetriadou, Administrative President, Larnaca/Famagusta DC
2. Mrs Andriana Malekidou, Administrative Registrar, Larnaca/ Famagusta DC

ADMINISTRATIVE AND OTHER REGISTRARS OF DISTRICT COURTS

1. Mrs Maria Christodoulou, Adm. Registrar, Nicosia
2. Mrs Maria Ioannides, Registrar, Limassol
3. Mrs Andriana Malekidou, Adm. Registrar, Larnaca
4. Mr Matheos Ataliotis, Adm. Registrar, Paphos
5. Mrs Poly Gregoriou, Registrar, Family Court
6. Mrs Andri Makri, Registrar, Nicosia DC, Criminal
7. Mrs Yioli Makridou, Registrar, Nicosia DC, Civil
8. Mrs Maria Tsiappa, Registrar, Larnaca DC

STENOGRAPHERS

1. Mrs Stella Eliadou, Stenographer, Nicosia DC
2. Mrs Chryso Theodoulou, Stenographer, Nicosia DC
3. Mrs Marina Heracleous, Stenographer, Nicosia DC
4. Mrs Eva Kittou, Temporary Stenographer, Nicosia DC

ICT MANAGER AND E-JUSTICE PROJECT MANAGER

1. Mrs Nota Toumazou, IT Officer A', DITS, Ministry of Finance
2. Mr Artemis Hadjiloizou, IT Officer, DITS, Ministry of Finance
3. Mr Evagoras Hadjidementri, Registrar, Supreme Court

PUBLIC ADMINISTRATION AND PERSONNEL DEPT (PAPD)

1. Mrs Patrina Taramidou, Senior Officer
2. Mrs Polina Mastromichali, Officer

POLICE AND PRISON SERVICES REPRESENTATIVES

1. Inspector A. Avraamides – Prosecution Office, Nicosia Police
2. Sergeant V. Charalambous, Prosecution Office, Police Headquarters
3. Mrs Sofocleous, Police Headquarters

LARNACA AND FAMAGUSTA BAR ASSOCIATIONS

1. Mr Vasos Theodorou, Advocate, President, Larnaca Bar Association
2. Mr Stavros Mavrommatis, Advocate, President, Famagusta Bar Association

Mission 3 – The Management of the Courts: 27-30 November, 2017

MEMBERS OF COURT REFORM STEERING COMMITTEE

1. Mr Myron Nicolatos, President, Supreme Court
2. Mr Costas Pamballis, Justice, Supreme Court
3. Mrs Katerina Stamatiou, Justice, Supreme Court
4. Mr George Erotocritou, Former Supreme Court Judge, Project Coordinator/Manager
5. Mr Nicolas Santis, President, District Court, President, Judges' Association of Cyprus
6. Mrs Irene Christodoulou, Chief Registrar
7. Mr Andreas Charalambous, Director of Financial Stability (Representative of Ministry of Finance)
8. Mrs Phedra Gregoriou, Legal Officer, Ministry of Justice and Public Order
9. Mr Doros Ioannides, Advocate, President, Pancyprian Bar Association

MEMBERS OF SCOPING MISSION

1. Dr Brian Cawley, Former Director General of IPA, Mission Leader
2. Mr. Michael O'Beirne, IPA Associate Consultant and Court Service Expert.
3. Ms. Olive Caulfield IPA Associate Consultant and Court Service Expert
4. Mr James Connington, Lecturer of IPA, Ireland
5. The EC/ SRSS was represented on part of the mission by Mr. Stratus Kastrissianakis.

PROJECT COORDINATOR / MANAGER

1. Mr George Erotocritou, Former Supreme Court Judge, Director of Reform and Training, Supreme Court

JUDGES REPRESENTING SUPREME COURT

1. Mr Myron Nicolatos, President
2. Mr Costas Pamballis, Justice
3. Mrs Katerina Stamatou, Justice

OFFICE OF THE ATTORNEY-GENERAL

1. Mr Costas Clerides, Attorney-General

OFFICE OF CHIEF REGISTRAR

1. Mrs Irene Christodoulou, Chief Registrar
2. Mrs Marina Eleftheriou, Senior Registrar, Administrative Registrar, Larnaca District Court
3. Mr Antreas Tserkezos, Registrar, Substitute to Chief Registrar, whenever necessary

REGISTRARS

1. Mr Savvas Kyriakou, Senior Registrar, Administrative Registrar,
Limassol District Court
2. Mrs Yioli Markidou, Registrar, Administrative Court
3. Antreas Tserkezos, Registrar, Supreme Court

MINISTRY OF FINANCE

1. Mr Harris Georgiades, Minister of Finance
2. Mr Andreas Charalambous, Director of Financial Stability

MINISTRY OF JUSTICE AND PUBLIC ORDER

1. Mr Ionas Nicolaou, Minister of Justice and Public Order
2. Mrs Phedra Gregoriou, Legal Officer

PUBLIC ADMINISTRATION AND PERSONNEL DEPT (PAPD)

1. Mrs Polina Mastromichali, Officer

OFFICE OF ACCOUNTANT GENERAL

1. Mrs Rea Georgiou, Accountant General
2. Mr Andreas Sophocleous, Director of Accounting Services

OFFICE OF THE LAW COMMISSIONER

1. Mrs Leda Koursoumba, Law Commissioner

PUBLIC WORKS DEPARTMENT

1. Mrs Chrystalla Constantinou, Architect, 1st Grade

ACADEMICS

1. Dr Christos Clerides, Associate Professor, Head of Department of Law, Frederic University
2. Dr Constantinos Combos, Assistant Professor of Public Law, University of Cyprus

REFORM OFFICE OF PRESIDENCY

1. Mrs Marina Jensen, Director, Unit for Administrative Reform

PEDAGOGICAL INSTITUTE OF CYPRUS (Independent State Agency)

1. Mrs Athena Michaelidou

CRIMINAL LAWYERS

1. Mr Elias Stephanou, Advocate, Academic
2. Mrs Despina Kyprianou, Attorney-General's Office

Appendix C – Interim Actions

Supreme Court

1. Provide further appropriate support to the Director of Reform and Training to ensure the timely provision of information to the Review Team in preparation for Missions 2 and 3, to deal with ongoing queries and to maintain communication with stakeholders for the duration of the project
2. Pending the introduction of a full E- Justice system consideration should be given to the provision of dedicated technical assistance to develop and enhance current use of elements of an electronic registrar. The development of further functionality to allow for the capture of statistics, the provision of management information, diarying facilities and the scanning and production of court files should also be explored.
3. The establishment of a team to manage the evaluation and implementation of the E-Justice project from the courts’ perspective would ensure maximum benefit to the courts of this initiative.
4. Pending the introduction of the E-Justice system the most commonly used forms of application and procedures relating to same could be posted on the courts website. Details of cases listed in the legal dairy could be e-mailed daily to practitioners and posted on the website.
5. A small number of appropriately located signs would help the public in navigating the building.

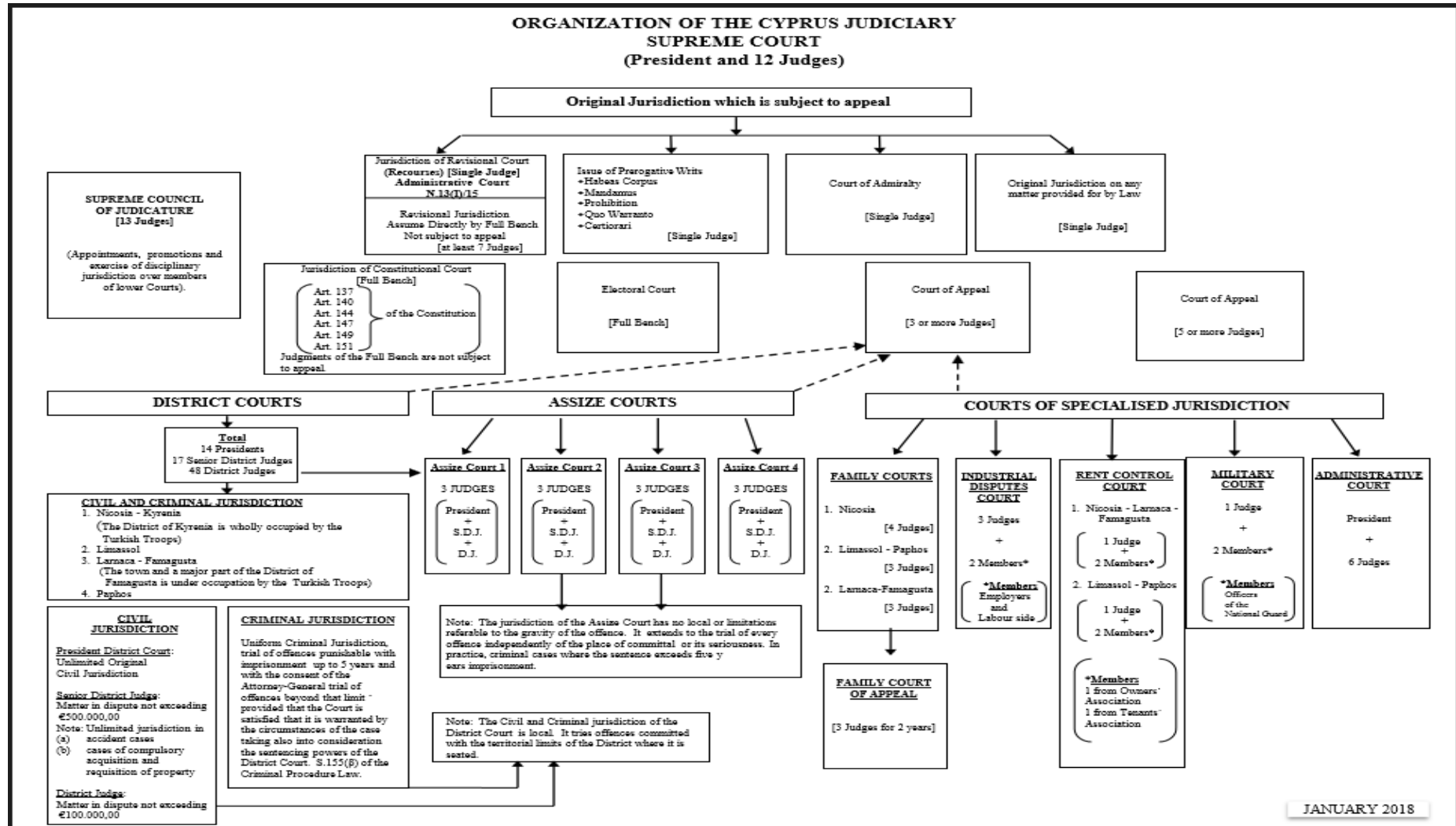
District Courts and Other First Instance Courts

1. To reduce the current level of risk and to aid disaster recovery registers and other critical documents should be stored in a fireproof cabinet or location. An electronic register of cases should be introduced with backup tapes stored offsite. Interim action at 3.8.4 also refers.
2. While the E Justice initiative will undoubtedly be of critical significance in enhancing the operational efficiency of the courts it will not address the immediate requirement for improvement. The view of the IPA team is that the interim action suggested in its report on the Supreme Court should also be considered for the First instance courts. For ease of reference this recommendation was *“Pending the introduction of a full E- Justice system consideration should be given to the provision of dedicated technical assistance to develop and enhance the current use of elements of an electronic register. The development of*

further functionality to allow for the capture of statistics, the provision of management information, diaring facilities, filing, archiving and the scanning and production of court files should also be explored.

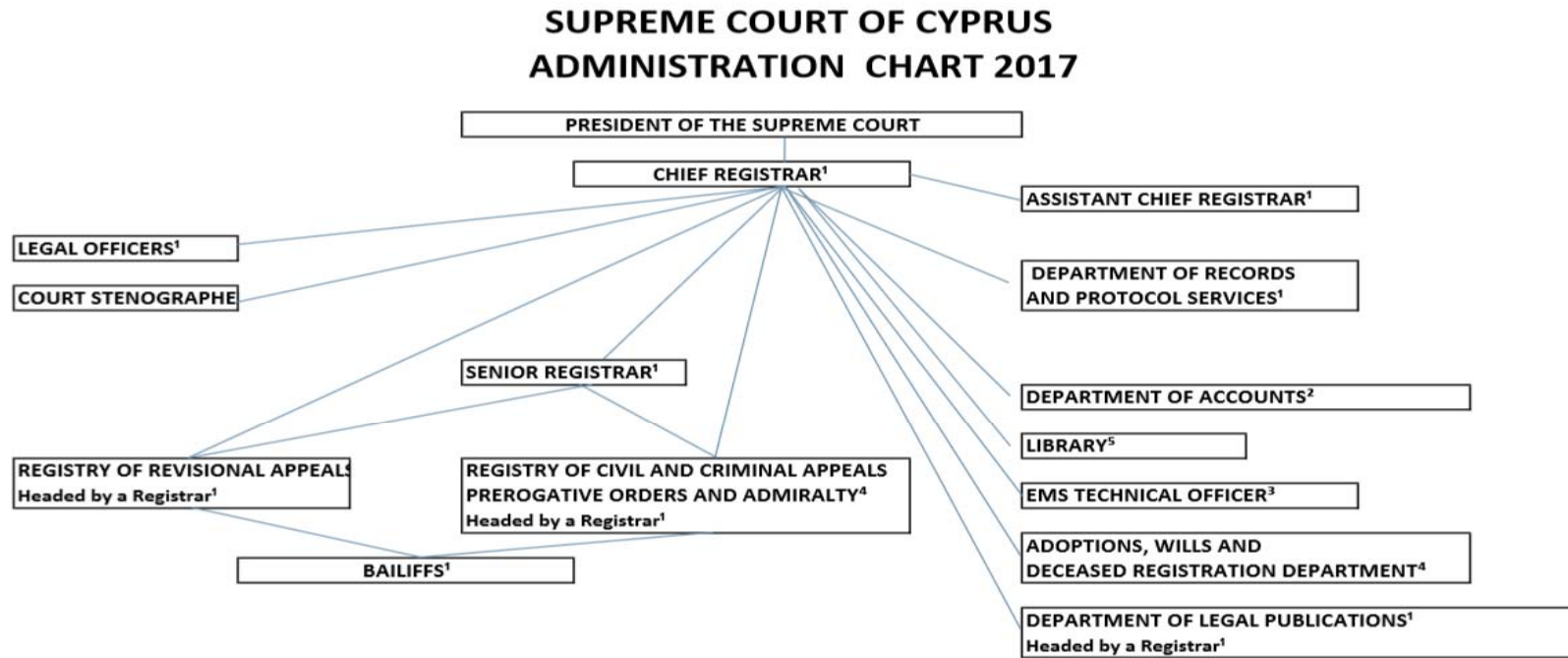
3. Arrangements to provide training in office ICT software should be made as a matter of priority.

Appendix D – Organisation Chart of the Cyprus Judiciary



Appendix E – Administrative Organisation Chart – Staff Reporting Structures

Administrative Organisation Chart Setting Out the Staff Reporting Structures



¹ Members of the Judicial Service

² General Accountancy Officer - posted by the Treasury of the Republic of Cyprus

³ Seconded by the EMS Department - Ministry of Transport Communication and Works

⁴ Clerks, Messengers and Cleaners (Interchangeable staff posted by the Ministry of Finance)

⁵ Librarian posted by the Ministry of Education and Culture

Appendix F – Judicial Service – Number of Employees – Organic Posts 2016

| CATEGORY | SUPREME COURT | ADMINISTRATIVE COURT | DISTR. COURT NICOSIA | DISTR. COURT LIMASSOL | DISTR. COURT LARNACA - FAMAGUSTA | DISTR. COURT PAPHOS | FAMILY COURT | INDUSTRIAL DISPUTES COURT | RENT CONTROL COURT | COURT MARTIAL | TOTAL |
|--|---------------|----------------------|----------------------|-----------------------|----------------------------------|---------------------|--------------|---------------------------|--------------------|---------------|------------|
| Chief Registrar | 1 | | | | | | | | | | 1 |
| Ass. Chief Registrar | 1 | | | | | | | | | | 1 |
| Legal Officers | 11 | | | | | | | | | | 11 |
| Registrars | 5 | 1 | 6 | 5 | 4 | 2 | 1 | | | | 24 |
| Stenographers | 14 | | 16 | 24 | 14 | 9 | 4 | 1 | 1 | | 83 |
| Stenographers temporary indefinite duration (PAPD) | 1 | | 1 | 0 | 0 | 0 | | | | | 2 |
| Stenographers Temporary fixed-term | | 3 | 5 | | | | | 1 | | | 9 |
| Stenographers temporary indefinite duration | | | 4 | 2 | 1 | 2 | | | | | 9 |
| Bailliffs | 1 | | 11 | 8 | 7 | 5 | | | | | 32 |
| Bailliffs - temporary indefinite duration | | | | | | 2 | | | | | 2 |
| TOTAL | 34 | 4 | 43 | 39 | 26 | 20 | 5 | 2 | 1 | 0 | 174 |

Appendix G – Judicial Service – Number of Employees – Other Staff 2016

| CATEGORY | SUPREME COURT | ADMINISTRATIVE COURT | DISTR. COURT NICOSIA 2 | DISTR. COURT LIMASSOL | DISTR. COURT LARNACA-FAMAGUSTA | DISTR. COURT PAPHOS | FAMILY COURT | INDUSTRIAL DISPUTES COURT | RENT CONTROL COURT | COURT MARTIAL | TOTAL |
|---|---------------|----------------------|------------------------|-----------------------|--------------------------------|---------------------|--------------|---------------------------|--------------------|---------------|-------|
| Interpreters - temp | | | 2 | | 1 | | | | | | 3 |
| Interpreters - Temporary Certain Time | | | 0 | | | | | | | | 0 |
| Librarians | | | 0 | 1 | | | | | | | 1 |
| Librarians - Temporary I/D | 1 | | 1 | | | | | | | | 2 |
| Clerical Staff | 10 | 1 | 7 | 17 | 18 | 6 | 2 | | 1 | | 62 |
| Clerical Staff - Temporary I/D | 6 | 2 | 26 | 12 | 4 | 9 | 1 | 2 | | 1 | 63 |
| Clerical Staff - Temporary Certain Time | | | 0 | | | 1 | | | | | 1 |

| | | | | | | | | | | | |
|---|-----------|----------|-----------|-----------|-----------|-----------|----------|----------|----------|----------|------------|
| Clerical Staff - Temporary with Contract | 1 | | 0 | | | | | | | | 1 |
| Messengers / Government Hourly paid staff | 13 | 4 | 23 | 20 | 16 | 14 | 2 | 3 | 1 | 1 | 97 |
| Cleaners | 5 | | 5 | 5 | 5 | 4 | 1 | | | | 25 |
| Gardener | 1 | | 1 | 1 | 1 | 1 | | | | | 5 |
| Security Worker | | | | 1 | | | | | | | 1 |
| Technical Assistants | 1 | | | | | 1 | | | | | 2 |
| ΣΥΝΟΛΟ | 38 | 7 | 65 | 57 | 45 | 36 | 6 | 5 | 2 | 2 | 263 |

Appendix H - List of Recommendations

| Theme and Recommendation ID | Recommendation |
|---|--|
| Clear Backlog 1 | Establish a task force supported by a dedicated project team leader and project team to address the backlog in the Supreme Court the District Courts and the Industrial Disputes Court |
| 2 | Establish a review group to specifically investigate the introduction of revised arrangements for the hearing of appeals, including the establishment of a second tier Court of Appeal. Once complete, the existing Supreme Court to be tasked with the clearance of the existing backlog of appeals, according to parameters established by the Taskforce. |
| Management structure 3 | Establish the Courts Service of Cyprus as an independent statutory body to undertake all aspects of management, administration and support to the courts. The Service will be governed by a Board with a judicial majority chaired by the President of the Supreme Court with representation from key stakeholders. |
| 4 | Establish an organisational and management structure for the new Courts Service of Cyprus, headed by a Chief Executive Officer and supported by 2 Senior Managers / Heads of Division, with two distinct areas of responsibility - Court Operations and Court Support Services. |

| Theme and Recommendation ID | Recommendation |
|---------------------------------------|---|
| 5 | Newly appointed CEO and management team to take responsibility for developing strategies and plans for the courts service to cover, inter alia, accommodation and security; risk management including the establishment of a risk register; staffing numbers; staff training and development; ICT; financial and budgetary strategy; supports to the judiciary, the public and all court users. |
| Case Management 6 | Assign a case management judge(s) in each district to manage cases to trial, to allocate cases to hearing and to ensure consistency in the application of rules, procedures and practice directions. The new procedures should be made publicly available. |
| 7 | With the implementation of E-Justice, and prior to that with some enhancement of existing ICT systems, to introduce case categorisation, tracking, and monitoring systems to support the streaming of cases, monitoring compliance with orders and protocols, and managing the central allocation of cases to hearing. |
| 8 | Introduce a system of continuous hearings |
| 9 | Criminal summons cases should not be entered in the court list until service is effected. |
| Judicial Time Management 10 | The Supreme Court should consider reducing the composition of the appeals bench to three judges for all administrative appeals |
| 11 | The role of Registrars and Legal Officers should be expanded to include dealing with routine procedural matters, assisting in research and the drafting of judgments. |

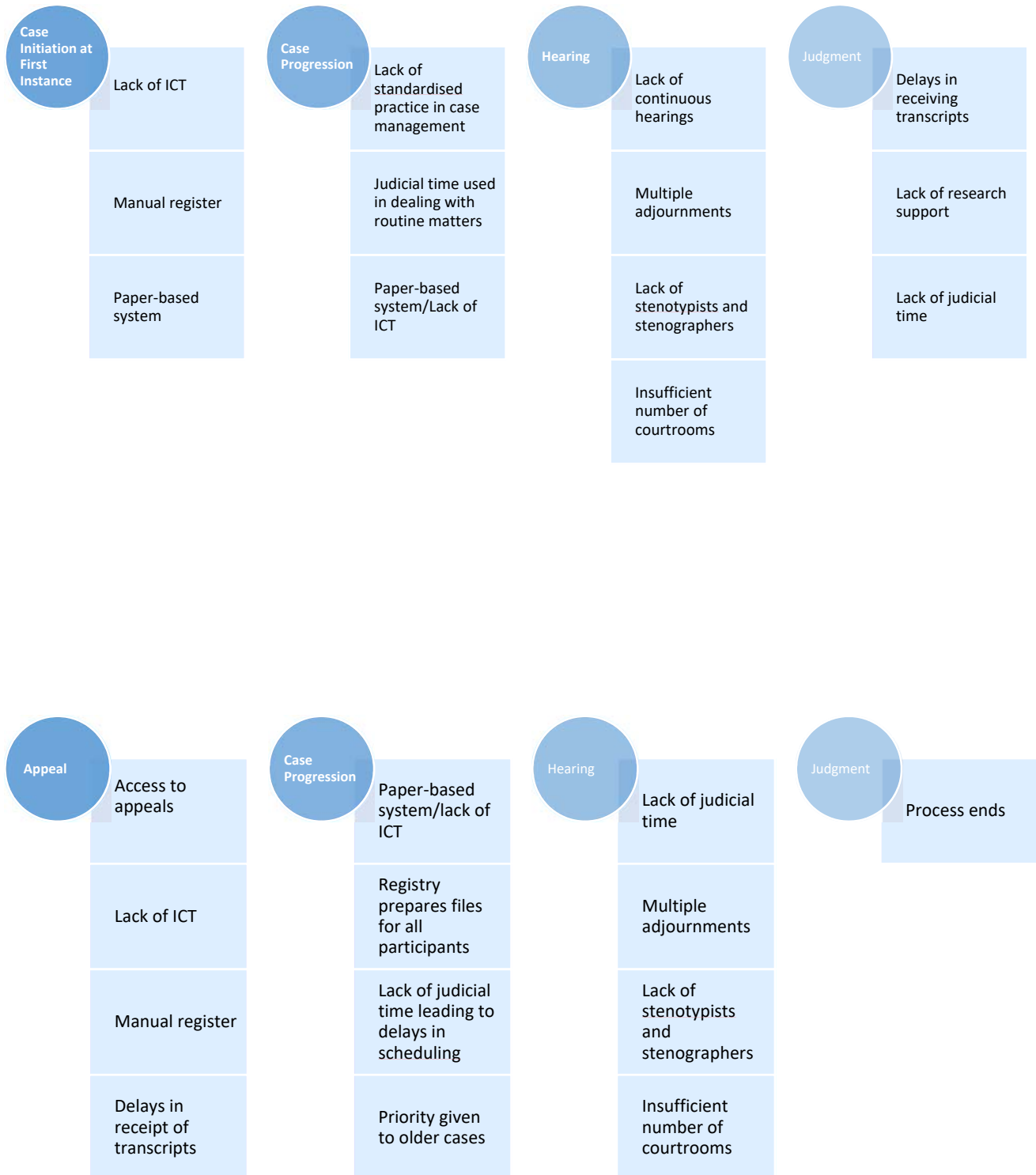
| Theme and Recommendation ID | Recommendation |
|--------------------------------------|--|
| 12 | The composition of interview boards for judicial appointments should be examined with a view to reducing the number of Supreme Court judges directly involved. |
| 13 | Judges should be provided with modern ICT hardware, software, and remote access to relevant systems, with appropriate training and support. Access to online legal databases and resources should be facilitated. |
| 14 | Introduce digital audio recording (DAR) of court proceedings |
| 15 Alternative Dispute Resolution | Introduce ADR mechanisms in consumer disputes and injuries assessment cases as an alternative to issuing court proceedings. |
| 16 | Courts should actively encourage mediation in cases where settlement is considered to be a likely outcome. The Rules of Court should be amended to make provision for the court to refer cases to mediation. |
| 17 | Modify the current two-year rota system to ensure that judges rotate at different times in the cycle, thus ensuring that there is continuity of expertise and input to trials. Make the development of expertise in specific areas part of the continuing professional development programme for judges. |
| 18 Judicial Training | Specific training to be provided in <ul style="list-style-type: none"> • the interpretation and application of the Rules of Civil Procedure |

| Theme and Recommendation ID | Recommendation |
|------------------------------------|---|
| | <ul style="list-style-type: none"> • time management • specialised areas of law, before assignment to a particular business or case |
| 19 | A mentoring arrangement for new or less experienced judges should be introduced |
| 20 | Introduce a system of fee collection using secure appropriately configured franking machines |
| 21 | Following the establishment of the Courts Service of Cyprus, user groups should be established by the Service in each district to provide a forum for the discussion and resolution of matters of mutual concern. |
| Short Term Recommendation 1 | Engage expertise to expand functionality of the electronic register, and other functionality of the current ICT system. Further develop the website and provide staff with training in office software. |
| 2 | Appropriate court, registry and document storage should be sourced as a matter of urgency for Nicosia District Court. |
| 3- Part 1 | Appoint appropriate support, dedicated to the implementation of recommendations from this reform project, to the office of the Director of Reform and Training. Details of the structure for support are set out in Chapter 5. |
| 3- Part 2 | A dedicated team to be put in place in the Office of the Director of Reform and Training, with two full-time project team leaders (one to manage the project on backlogs, the other to manage the implementation of other reforms) and supporting administrative staff, to oversee and implement the recommendations from this Functional Review and the actions set out in the Action Plan |

Appendix I – Illustrations of Storage Area at Nicosia District Court Registry



Appendix J – Issues and Challenges at Each Stage of a Case



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