

LITIGATION

Cyprus

Supreme Court declares municipality laws unconstitutional

In a recent case the full bench of the Supreme Court decided by a majority that laws enacted by the House of Representatives in 2010, amending the Municipality and Communities Law to allow civil servants to participate in local elections, were unconstitutional. Following the

ruling, any public servant who is elected to a council and chooses to serve on it must resign from his or her public service position.

Authors: [Constantinos Kourides](#), [Paraskevas Pavlides](#)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G34429>)

Denmark

ECJ rules on reimbursement of taxes levied in breach of EU law

When an EU member state has levied a tax in breach of EU law, the consequences of the tax's incompatibility with EU law must be offset by reimbursement. The Court of Justice of the European Union recently considered a case arising from the Danish state's levying of an excise duty on lubricant and hydraulic oils that was later found to be unlawful.

Authors: [Tom Kári Kristjánsson](#), [Thomas Gønge](#)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G34432>)

India

Validity of arbitration agreement in unregistered instrument

In a recent judgment the Supreme Court opined on the question of whether an arbitration agreement contained in an unregistered (but compulsorily registrable) instrument was valid and enforceable. The decision is of interest to parties dealing with immovable property transactions, as it confirms that parties should be vigilant about the statutory requirements of registering and stamping an instrument.

Authors: [Jasleen K Oberoi](#), [Bahaar Dhawan](#)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G3443E>)

Ireland

Solicitors' undertakings regarding payments

A recent case raised the question of whether a solicitor's undertaking in respect of future payments to be made to a client company constituted a charge over the book debts of that company within the meaning of the Companies Act 1963. The judge identified that the case raised a difficult question of company law and the interpretation of the relevant provisions of the act.

Author: [Gearóid Carey](#)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G3443P>)

United Kingdom

Risks of last-minute issue of claim forms

A recent decision sends a clear message to parties that attempt to cast blame on the court in trying to overcome limitation issues. The judge made clear that the onus is on solicitors (or the claimant) to ensure that the court receives the claim form on time. The court also summarised when Section 21(1)(b) of the Limitation Act 1980 will apply in actions against fiduciaries, and the test for concealment under Section 32(1).

Author: [Rebecca Stewart](#)

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G3443V>)

Australia

Destruction of mobile phones impaired fair defamation trial

Charmyne Palavi recently lost her bid to quash orders by the New South Wales (NSW) District Court striking out two defamatory imputations on the basis that she had disposed of mobile phones in defiance of discovery obligations. The NSW Court of Appeal re-exercised its discretion in light of errors by the district court, but ultimately upheld the district court's finding that the destruction of some of the phones impaired the fairness of the trial.

Author: **Stephen Morrissey**

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ERYC>)

Cyprus

Courts rule on *Norwich Pharmacal* relief in fraudulent transfer of money case

The Cyprus courts recently upheld an application for *Norwich Pharmacal* relief in a case related to the fraudulent transfer of money to an account with a Cyprus bank. The bank had opposed the application, arguing that it was contractually obliged to its client on the basis of banking privilege. The court dismissed the bank's argument, stating that it was in the public interest that the identity of the fraudsters be discovered.

Author: **Panayiotis Neocleous**

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ERZ8>)

India

Court rules on non-suiting of party due to grant of interim relief

In a recent case, the Supreme Court considered the nature of reliefs that a court may grant at an interim/interlocutory stage and reiterated its stance that an interim order cannot be such that it would non-suit one of the parties at this stage, and would therefore take the form of a final relief.

Authors: **Kirat Singh Nagra, Adit Pujari**

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ES04>)

Isle of Man

Manx court confirms law on voluntary submission to jurisdiction

The Isle of Man High Court has again looked at the question of a party's voluntary submission to the jurisdiction of a court in assessing whether an action based on a Nigerian judgment can properly proceed in the Isle of Man High Court. The case provided a useful reminder as to the private international law position on enforcing foreign judgments at common law in other territories.

Author: **John T Aycock**

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ES19>)

Netherlands

Draft bill proposes changes to enquiry proceedings

Earlier this year the minister of justice and security sent a draft bill on the amendment of enquiry proceedings to the lower house of Parliament. The reason for the draft bill is to improve enquiry proceedings in certain respects. The draft bill includes amendments

regarding access to and procedural aspects of enquiry proceedings.

Authors: Jeroen Ouwehand, Joost Heurkens

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ES1T>)

Turkey

Council of State rules on transfer pricing in pharmaceutical industry

A transfer pricing issue has come to light in a recent court case. Tax auditors considered that a pharmaceutical company which had purchased ingredients from its group companies abroad at inflated prices was engaging in disguised profit distribution. However, the Council of State ruled that the factors which may cause price differences between pharmaceutical ingredients should be taken into account.

Author: Selale Kartal

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ES25>)

United Kingdom

Assessing the source: unreliable witnesses and imprecise recipes

A recent High Court judgment demonstrates the difficult art of determining issues on which all the direct witnesses have been demonstrated to be unreliable. It also contains a significant reminder to claimants and their solicitors to monitor the continuing belief in the statements set out in a letter before action and to issue corrections when the need to do so becomes apparent.

Author: Jake Hardy

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G2ES2E>)

Cyprus - contributed by Andreas Neocleous & Co LLC

No use crying over spilled coffee: court rules in negligence case

The Civil Wrongs Law provides that negligence consists of either performing an act which a reasonable prudent person would not do or failing to perform an act which such person would do, causing damage as a result. The Limassol District Court recently ruled in a negligence case, awarding damages against an airlines to a claimant for burns suffered when coffee was spilled on her onboard a flight.

Author: Costas Stamatou

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G1SCNC>)

Finland

Supreme Court considers international jurisdiction of Finnish courts

In a recent case the Supreme Court considered, among other issues, the international jurisdiction of the Finnish courts. In its judgment, the court concluded that the defendant had withdrawn a choice of forum agreement by stating to the court that it did not contest the jurisdiction of the Finnish court in the matter. Therefore, the court considered that the Finnish courts were competent to consider the case despite the existence of a choice of forum agreement, which granted sole territorial jurisdiction to the Californian courts.

Authors: Jussi Ikonen, Tiina Järvinen

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G1SCP8>)

Philippines

Arbitration agreement in disputed contract constitutes separate agreement

In *Cargill Phils Inc v San Fernando Regala Trading, Inc* the Supreme Court ruled that while actions for rescission and damages are ordinarily judicial matters, the dispute at hand was to be referred to arbitration because the contract which the plaintiff sought to have rescinded included an arbitration agreement.

Author: Eduardo De los Angeles

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G1SCQK>)

United Kingdom

Expert witnesses lose immunity from suit - who will be next?

The Supreme Court recently ruled in favour of removing the longstanding immunity from suit of expert witnesses in civil cases. Although many in the legal profession will see this as a logical extension of the removal in 2002 of a similar protection afforded to barristers, there are concerns as to how potential experts may view the ruling.

Author: Abigail Silver

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G1SCRF>)

AVIATION

Italy

Competition Authority examines air carrier merger

The Antitrust Authority has recently examined a merger between two Italian carriers which resulted in the consolidation of their flight operations under joint control. It analysed either geographical or product markets for all services involved, including scheduled flights, non-scheduled flights, cargo services and tour operator services.

Author: Laura Pierallini

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G1X4NM>)

Canada

Registered owner retains title to aircraft

The Saskatchewan Queen's Bench recently issued judgment in an aircraft ownership dispute. It held that the registered owner of a Cessna P210N aircraft should, pursuant to the provisions of the Criminal Code, be entitled to receive possession of that aircraft, which had been seized by the police in the course of investigating a crime.

Author: Carlos P Martins

(Read article <http://www.internationallawoffice.com/?i=55592&l=7G390BY>)