

International **Comparative** Legal Guides



Digital Business **2021**

A practical cross-border insight into digital business law

Second Edition

Featuring contributions from:

Anderson Mōri & Tomotsune
Armengaud Guerlain
Bagus Enrico & Partners
Charles Russell Speechlys LLP
Cozen O'Connor
E & G Economides LLC
G&W Legal
Greychapel Legal
Hammad & Al-Mehdar Law Firm

Hassan Radhi & Associates
Immigration Solutions Lawyers
Lee and Li, Attorneys-at-Law
Lewis Silkin LLP
Mattos Filho, Veiga Filho, Marrey Jr e Quiroga
Advogados
Mic, Ilie & Asociații
Pelinari & Pelinari
Portolano Cavallo

ROBIC LLP
Shin Associates
SKW Schwarz
SLV Legal
Walder Wyss Ltd

ICLG.com



ISBN 978-1-83918-119-1
ISSN 2732-5237

Published by

glg global legal group

59 Tanner Street

London SE1 3PL

United Kingdom

+44 207 367 0720

info@glgroup.co.uk

www.iclg.com

Publisher

James Strode

Senior Editor

Sam Friend

Head of Production

Suzie Levy

Chief Media Officer

Fraser Allan

CEO

Jason Byles

Printed by

Ashford Colour Press Ltd.

Cover image

www.istockphoto.com

Strategic partners



International **Comparative** Legal Guides

Digital Business **2021**

Second Edition

Contributing Editors:

James Gill & Victor Timon
Lewis Silkin LLP

©2021 Global Legal Group Limited.

All rights reserved. Unauthorised reproduction by any means, digital or analogue, in whole or in part, is strictly forbidden.

Disclaimer

This publication is for general information purposes only. It does not purport to provide comprehensive full legal or other advice. Global Legal Group Ltd. and the contributors accept no responsibility for losses that may arise from reliance upon information contained in this publication.

This publication is intended to give an indication of legal issues upon which you may need advice. Full legal advice should be taken from a qualified professional when dealing with specific situations.

Expert Analysis Chapters

1

De-risking Digital Business Dreams

James Gill, Victor Timon & Helen Hart, Lewis Silkin LLP

5

Modern Slavery: A 'Wicked Problem' that Requires a Human Rights-Based Approach

Anne O'Donoghue, Lihini Konara, Adelaide Falzon & Tiara Dalpadado, Immigration Solutions Lawyers

Q&A Chapters

15

Bahrain

Hassan Radhi & Associates: Ahmed Abbas & Sayed Jaffer Mohamed

20

Brazil

Mattos Filho, Veiga Filho, Marrey Jr e Quiroga
Advogados: Fabio Ferreira Kujawski, Lisa Worcman,
Paulo Marcos Rodrigues Brancher & Thiago Luís Sombra

28

Canada

ROBIC LLP: Jean-François Normand

36

Cyprus

E & G Economides LLC: Xenia Kasapi &
George Economides

43

France

Armengaud Guerlain: Catherine Mateu

54

Germany

SKW Schwarz: Dr. Christoph Krück, Franziska
Ladiges, Alexander Möller & Heiko Wunderlich

62

India

G&W Legal: Disha Mohanty & Arjun Khurana

70

Indonesia

Bagus Enrico & Partners: Enrico Iskandar,
Bratara Damanik & Jonathan Cheong

78

Ireland

Lewis Silkin LLP: Victor Timon

88

Italy

Portolano Cavallo: Irene Picciano, Fabiana Bisceglia,
Donata Cordone & Livia Petrucci

97

Japan

Anderson Mōri & Tomotsune: Ken Kawai &
Takashi Nakazaki

104

Malaysia

Shin Associates: Joel Prashant & Foo Jia Yi

116

Nigeria

Greychapel Legal: Eniola Elegushi & Maryann
Ntamere

124

Romania

Mic, Ilie & Asociații / Pelinari & Pelinari / SLV Legal:
Alexandru Stanescu, Andrei Pelinari, Stelian Mic &
Tudor Velea

135

Saudi Arabia

Hammad & Al-Mehdar Law Firm: Suhaib Hammad

141

Switzerland

Walder Wyss Ltd: Jürg Schneider, Hugh Reeves &
Maria Gentile

149

Taiwan

Lee and Li, Attorneys-at-Law: Robin Chang &
Eddie Hsiung

156

United Kingdom

Charles Russell Speechlys LLP: Jason Saiban &
Caroline Swain

164

USA

Cozen O'Connor: Victor J. Castellucci

Cyprus



Xenia Kasapi



George Economides

E & G Economides LLC

1 E-Commerce Regulations

1.1 What are the key e-commerce legal requirements that apply to B2B e-commerce in your jurisdiction (and which do not apply to non-e-commerce business)? Please include any requirements to register, as well as a summary of legal obligations specific to B2B e-commerce.

The key e-commerce legislation in Cyprus that applies both to B2B and B2C transactions is the “Law on Certain Legal Aspects of Information Society Services” in Particular Electronic Commerce and Associated Matters of 2004 as amended Law No. 97 (I) 2007” (The Electronic Commerce Law). The Law implemented the Directive 2000/31/EC of the European Parliament and of the Council of the European Union based on the EU Directive (2000/31/EC) on certain legal aspects of information society services, in particular electronic commerce in the internal market.

The key e-commerce legal requirements which apply to **Business-to-Business** (“**B2B**”) are general information requirements and pre-contractual information requirements. Additionally, the commercial communications must be clearly identified and electronic contracting should indeed be allowed.

There are no requirements to register, according to Article 7 of the Electronic Commerce Law; the taking up and pursuit of the activity of an information society service provider may not be made subject to prior authorisation before starting any activities.

The law does not apply in the following instances:

- the field of taxation;
- questions relating to information society services covered by the provisions of the Processing of Personal Data (Protection of the Individual) Law of 2001 and the Regulation of Telecommunications and Postal Services Law of 2002 as amended or superseded on each occasion;
- questions relating to agreements on concerted practices which fragment the market or fix prices, or to other practices governed by the Protection of Competition Law of 1987 as amended or replaced on each occasion; or
- the following activities of information society services:
 1. the activities of professions directly and specifically connected with the exercise of public authority;
 2. the representation of a client and defence of his interests before the courts; and
 3. gambling activities.

From the provisions of the Electronic Commerce Law, there are legal obligations to B2B e-commerce to provide information (disclosure requirements). In order to protect consumers,

the Electronic Commerce Law states that specific information about the service provider should be disclosed to the recipient of the information when conducting business electronically. Such information includes disclosure of the name of the service provider and their contact details (including email addresses and others), the physical address at which the service provider is established, whether the service provider is registered in a trade or similar public register, the trade register in which the service provider is entered and the registration number or equivalent means of identification in that register, where the activity is subject to an authorisation scheme and the particulars of the relevant supervisory authority. Furthermore, where the service provider undertakes an activity that is subject to VAT, the identification number on value added tax must be disclosed as well.

From the provisions of Law 156(I)/2004, it arises that commercial communication must comply with the following conditions:

1. A service provider is obliged to ensure that any commercial communication provided is clearly identifiable as a commercial communication and identifies the natural or legal person on whose behalf it is made.
2. Furthermore, any promotional offers and the conditions, which must be met to qualify for the offers, must be identified and presented clearly and unambiguously. In the same way, any unsolicited commercial communications sent by email must be clearly identifiable as such as soon as they are received.
3. Specific information must be disclosed by the service provider to the contract party, if a contract is to be concluded via electronic means.
4. Where the service providers’ terms and conditions are applicable, they must be made available to the contract party in a way that will allow the contract party to store and reproduce them.
5. If an order is placed with the service provider, the order must be acknowledged without undue delay and by electronic means.

There are circumstances where the above requirements do not apply. Some of the requirements can also be omitted on a B2B basis if the participants agree.

1.2 What are the key e-commerce legal requirements that apply to B2C e-commerce in your jurisdiction (and which do not apply to non-e-commerce business)? Please include any requirements to register, as well as a summary of legal obligations specific to B2C e-commerce.

In relation to electronic commerce, Cyprus law has come

in conformity with EU standards by passing the following legislation:

1. Electronic Commerce and Associated Matters Law 156(I)/2004, amended by Law No. 97(I)/2007 (the Electronic Commerce Law);
2. Law providing for the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data (No. 125(I)/2018) (Data Protection Law);
3. Law on conclusion of Distance Contracts 14(I)/2000, amended by Laws No. 237(I)/2004, No. 93(I)/2007, No. 16(I)/2008, 125(I)/2009, 133(I)/2013;
4. Legal Framework for Electronic Signatures and Associated Matters Law 188(I)/2004; and
5. Regulation of Electronic Communications and Postal Services Law 112(I)/2004, last amended by Law No. 76 (I)/2017. The Electronic Commerce Law has a broader scope, covering many aspects of e-business encompassing both B2B and B2C. Therefore, the legal requirements and obligations are those that are mentioned in question 1.1 above.

Other legal obligations specific to **Business-to-Consumers** (“**B2C**”) is that businesses shall comply with the Data Protection Law; businesses under the Data Protection Law are obliged to provide a privacy policy in which they need to explain to the consumers how they handle all consumers’ personal data. Such personal data received from the participants by electronic means should be processed fairly and lawfully, collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes. It must be adequate, relevant and not excessive in relation to the purposes for which it is collected and/or further processed. It must be accurate and, where necessary, kept up to date, and it must be kept in a form which permits identification of data subjects (participants) for no longer than is necessary for the purposes for which the data were collected or processed.

Furthermore, the businesses have obligations to provide consumers with at least the following information: the identity of the controller/their representatives; the purposes of processing of data; information about the recipients or categories of recipients of the data; the rights of the data subjects (individuals to whom the data relates); and more.

Additionally, the Law on Distance Selling Contracts obliges businesses to provide to the consumer clear information about goods and services before they buy. Confirmation should be made in writing, there is a right to withdraw from the contract and protection against credit card fraud, and unless otherwise agreed by the parties, the business must fulfil the contract within 30 days from the next day on which the consumer placed the order.

2 Data Protection

2.1 How has the domestic law been developed in your jurisdiction in the last year?

As of 25 May 2018, the principal data protection legislation in the European Union (EU) has been Regulation (EU) 2016/679, the **General Data Protection Regulation** (“**GDPR**”). In Cyprus, a national law supplementing GDPR was enacted in July 2018, the Law providing for the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data of 2018 (Law 125(I)/2018) (Data Protection Law).

2.2 What privacy challenges are organisations facing when it comes to fintech, retail, AI and digital health?

The main challenge that organisations are facing is mainly to protect the Right to Privacy and to comply with GDPR, as those companies are collecting, using and storing data. Such organisations need to comply with the fundamental principles of the GDPR, such as the principle of purpose of limitation (data to be collected for specified, explicit and legitimate purposes), the purpose of data minimisation (the information that is required has to be relevant for its purpose and limited to what is necessary) and more. For example, organisations also need to provide the individuals with the rights and requirements deriving from the fairness principle, which refers, for example, to the need for organisations deploying AI applications to be aware of implications that this deployment may have on individuals and their rights and freedoms but also on communities and societal groups. Additionally, organisations must act in a way that promptly complies with the expectations of the data subjects concerning the respect of their rights, especially when the consent forms the legal ground of processing.

2.3 What support are the Government and privacy regulators providing to organisations to facilitate the testing and development of fintech, retail, AI and digital health?

The government has developed and implemented data protection legislation with adequate and co-ordinated levels of enforcement, addressing the development of fintech, retail, AI and digital health in order to ensure equivalent and adequate levels of protection.

Additionally, Cyprus recognises that digital transformation, boosting investment in scientific research and innovative entrepreneurship is the prospering of every citizen and company alike in a dynamic digital economy. In Cyprus, the Institute for Research and Innovation supports innovative projects and research, by providing funding opportunities and overseeing the participation of research/innovation projects to domestic and international competitions. As of March 1 2020, the Cyprus government has been operating a Deputy Ministry of Research, Innovation and Digital Policy, as part of the Ministry of Finance, which was established in order to promote, guide and develop the digital transformation of Cyprus, while facilitating the operation of start-up businesses and supporting the Institute for Research and Innovation.

3 Cybersecurity Framework

3.1 Please provide details of any cybersecurity frameworks applicable to e-commerce businesses.

The cybersecurity framework in Cyprus, which is also applicable to e-commerce businesses, aims for the protection of all critical infrastructures of the state and the operation of information and communication technologies to implement the necessary levels of security, for the benefit of every individual and the economy. The National Cybersecurity strategy provides for a systematic approach on cybersecurity awareness, the implementation of which is co-ordinated by the Commissioner’s office of Electronic Communications and Postal Regulation. The government also supports activities in Cyprus via higher education institutions in the areas of network and information security. Further efforts have been made in order to enhance

awareness of risks and threats and to protect personal information online. Consequently, the country has adopted a strong and fundamental legal and regulatory framework addressing cybersecurity and protecting the rights of individuals and organisations in the digital environment.

3.2 Please provide details of other cybersecurity legislation in your jurisdiction, and, if there is any, how is that enforced?

Comprehensive legislation protecting consumers from online business malpractice has been adopted and is enforced through the Electronic Commerce Law (156(I)/2004), amended by Law No. 97(I)/2007. A lead agency responsible for the protection of online consumers has been designated: the Consumer Protection Service, which is a sub-division in the Ministry of Energy, Commerce and Industry. The main objective of the service is the protection of consumers' safety and economic interests. This was achieved through effective enforcement, improved monitoring of consumer markets and constant education of consumers. Overall, the country follows International and EU practices and is taking part in many EU meetings on amendments to required legislation. Additionally, Cyprus has implemented the Directive on security of **Network and Information Systems** ("NIS"). For the full implementation of the NIS Directive, the Digital Security Authority was formed, aiming for full implementation. Cyprus is obliged to boost its capabilities in the area of cybersecurity (National Competent Authority, National CSIRT, etc.) so as to co-operate with necessary stakeholders on a national and European level and at the same time manage cyberspace risks in a structured way and to impose incident notification requirements on relevant entities. Contrary to the NIS Directive, as stated in question 2.1, Cyprus has the Data Protection Law and has established in Nicosia the Commissioner's Office, which is an independent administrative authority dealing solely with the protection of personal information relating to an individual, against its unauthorised and illegal collection recording, and further use by imposing fines for those not complying.

4 Cultural Norms

4.1 What are consumers' attitudes towards e-commerce in your jurisdiction? Do consumers embrace e-commerce and new technologies or does a more cash-friendly consumer attitude still prevail?

In Cyprus, there has been an increased development and use of e-commerce in recent years. Mainly younger consumers feel confident with e-commerce transactions and embrace new technologies. Both online shopping and cashless electronic payments are booming and are among the key drivers of the digital transformation taking place in our economy and society. The ease of making electronic payments is disrupting many aspects of traditional consumer shopping behaviour, which is also increasingly driven by widespread use of mobile devices and apps.

However, sales in Cyprus still predominantly take place offline and a more cash-friendly consumer attitude still prevails in certain transactions. However, the opportunities that e-commerce and cashless transactions afford in terms of convenience, efficiency and affordability will help them gain further ground in the years to come; their popularity among younger generations and strong EU-level policy support for digital transformation are also helping boost their prospects.

4.2 Do any particular payment methods offer any cultural challenges within your jurisdiction? For example, is there a debit card culture, a direct debit culture, a cash on delivery type culture?

There are no particular payment methods that offer a cultural challenge; however, this can be clearly shown and will differ based on each consumer's characteristics (age, profession, etc.).

4.3 Do home state retailer websites/e-commerce platforms perform better in other jurisdictions? If so, why?

As stated in question 4.1, Cyprus e-commerce platforms continue to evolve along with the internet and the development of the legislation in that area.

4.4 Do e-commerce firms in your jurisdiction overcome language barriers to successfully sell products/services in other jurisdictions? If so, how and which markets do they typically target and what languages do e-commerce platforms support?

E-commerce in Cyprus has overcome the language barrier by developing translation and localisation services that assist to adapt a website to a foreign local market. The main target is EU markets and the language of preference for e-commerce activities is Greek, which is the native language for locals. English is also widely used and spoken by almost all consumers.

4.5 Are there any particular web-interface design concepts that impact on consumers' interactivity? For example, presentation style, imagery, logos, currencies supported, icons, graphical components, colours, language, flags, sounds, metaphors, etc.

There are no particular web-interface design concepts that influence consumers' interactivity. However, it goes without saying that the more generally solid the organisation is, the more trust the consumer will show, and hence will be more willing to enter into a transaction.

4.6 Has the Covid-19 pandemic had any lasting impact on these cultural norms?

E-commerce has indeed been affected by the Covid-19 pandemic. Temporary lockdown measures imposed to the majority of retail and trade organisations, along with social distancing measures, have changed the landscape of how businesses operate. The majority of retailers were not prepared for such a disruption to their operations. A significant number of companies in Cyprus have developed an online presence and have set up payment procedures through websites and applications so that they remain abreast with technology and up-to-date with their competition. As a result, and due to the pandemic, companies will invest more in online channels for business continuity reasons as well as to benefit from the change in consumer behaviour as Cypriot consumers are embracing e-commerce.

Consequently, the pandemic will lead to an overall accelerated adoption of e-commerce as it has changed the behaviour towards online channels, and the shifts are likely to remain after the pandemic.

5 Brand Enforcement Online

5.1 What is the process for online brand enforcement in your jurisdiction?

The first step to enable the brand enforcement and protection is to register its **Intellectual Property** (“IP”). Where the rights established by the registration of a trademark are infringed, the proprietor of the trademark may use alternative dispute resolution procedures or can file a court action before the District Court against the infringer.

5.2 Are there any restrictions that have an impact on online brand enforcement in your jurisdiction?

There are no restrictions.

6 Data Centres and Cloud Location

6.1 What are the legal considerations and risks in your jurisdiction when contracting with third party-owned data centres or cloud providers?

When contracting with third party-owned data centres or **Cloud Service Providers** (“CSPs”), there are indeed various privacy considerations. The Data Protection Law applies to data centres and cloud providers in the same way as any other technology where personal data is concerned and collected. The main issue when an organisation uses a CSP to store or process personal data is that the organisation needs to confirm the location of the data centres where such personal data is being kept. Many cloud providers use several firms located in different countries and are likely to qualify as international organisations; therefore, it must be ensured that appropriate safeguards are in place to protect personal data and to avoid any security risks and/or breaches.

Additionally, as cloud services may transmit data to third country controllers, they will have to meet the usual requirements of the GDPR with regard to international data transfers. This includes having a legitimate reason for the transfer, asserting data principles, applying appropriate controls or measures to protect personal data and informing the data subjects of the transfer of their personal data.

6.2 Are there any requirements in your jurisdiction for servers/data centres to be located in that jurisdiction?

No, there are no such requirements.

7 Trade and Customs

7.1 What, if any, are the technologies being adopted by private enterprises and government border agencies to digitalise international (cross-border) trade in your territory?

Cyprus has an advanced communications infrastructure in place to support businesses and constant efforts are being made to upgrade, expand and fully digitalise international trade.

New generation products are adopted by both private enterprises and the government; Cyprus technology is constantly being reinforced by high-end mobile networks, advanced satellite systems, fixed broadband via fibre connections, and more.

The country has dedicated fibre links to major international Points of Presence and Connectivity, ensuring all the right connections are in place.

The government is focused on creating a more efficient communications landscape and is promoting a digital economy, developing more secure and efficient global communications and launching incentives to digitalise international (cross-border) trade. Cross-border co-operation has been facilitated by the creation of infrastructure, including information and communication technology infrastructure, high-speed international connectivity, cables, platforms, devices and telecom services in order to ensure efficient connectivity among country systems to enable information flow.

Additionally, the adoption of electronic documents systems which involves the recognition of electronic signatures are also measures that enables international trade.

Consequently, with its current infrastructure and the commitment of the government to invest in the technological landscape, the country will boost its competitiveness to a digital future. Therefore, substantial growth in this sector is expected in the coming years.

7.2 What do you consider are the significant barriers to successful adoption of digital technologies for trade facilitation and how might these be addressed going forwards?

A main barrier which affects the adoption of digital technologies is the access and use of digital networks. Issues range from matters such as the quality of physical infrastructure to regulatory matters. Connectivity is a significant constrain for the adoption of digital technologies; the physical infrastructure or the cables and wires that underpin the transfer of information between countries underpin digital connectivity.

Co-ordination in and amongst countries also remains a problem, even where infrastructure exists. Therefore, the constant development of the information and communication technology infrastructure can unlock those barriers. Regional systems might also assist for smoothing out the transit process. Furthermore, regulatory differences between countries also remain. Principles of market openness enshrined in trade agreements may assist countries' approach to digital trade.

Consequently, market openness is essential for digital trade; market openness needs to be approached by taking into consideration the full range of measures that may affect any particular transaction. If logistics services costs in the receiving (or delivering) country are high due to service trade restrictions, or if goods are held up at the border by cumbersome procedures, then the benefits of digital trade may not be facilitated.

A holistic approach to market openness also means going beyond the issues that traditionally concern trade policy makers to understand how these interact with other policy domains such as infrastructure, innovation, skills and connectivity. New technologies are often made available through international trade and access to global markets for both inputs and outputs; this is indeed essential for scaling production and increase of competition. This should be possible for all businesses with the skills and capability to adapt to new data-driven solutions. Successful businesses in the digital age embrace both new technologies and access to global markets. Trade policy needs to be seen in the context of a range of other policies, which are also significant for the shared benefits for digital adoption to materialise.

Additionally, in order to successfully adopt trade facilitation and overcome such barriers, the House of Representatives has passed by majority a law establishing the Deputy Ministry of

Research, Innovation and Digital Policy. Further information can be found in question 2.3.

8 Tax Treatment for Digital Businesses

8.1 Can you give a brief description of any tax incentives of particular relevance to digital businesses in your jurisdiction? These could include investment reliefs, research and development credits and/or beneficial tax rules relating to intellectual property.

Cyprus introduced a flexible tax regime and managed to have one of the lowest and most favourable tax systems in the EU and globally, making it attractive to foreign and local investors to base their businesses in Cyprus.

A new amended Income Tax Law (118(I)/2002) was introduced in order to create attractive incentives through tax relief to individuals who invest in innovative businesses, including start-ups. In 2016, the Income Tax Law was amended through Article 9A and was introduced in order to enhance access to finance for new innovative businesses which face many difficulties accessing bank lending due to the high risk of operations.

In order to be eligible to benefit from the scheme, investors must be physical persons and independent investors, investing either directly or through an investment fund or through an alternative trading platform, in innovative **small and medium-sized enterprises** (“SMEs”).

Tax exemptions are subject to the following provisions:

1. The amount of deductible taxable income may not exceed 50% of the taxable income of that person during the tax year in which the investment is made.
2. The discount, insofar as it is not granted due to the above restriction, may be carried forward and granted for the next five years, subject to the above percentage limitation. Additionally, the deductible amount may not exceed the amount of €150,000 per year.

Cyprus also introduced a new Cyprus IP box regime which allows for a deductible notional expense calculated as 80% of the qualifying profits earned from qualifying intangible assets.

Qualifying intangible assets are:

1. patents;
2. computer software;
3. utility models, IP assets that provide protection to plants and genetic material, orphan drug designations, extensions of patent protection; and
4. other IP assets that are non-obvious, useful, and novel, that are certified as such by a designated authority, in Cyprus or abroad and where the taxpayer fulfils size criteria; annual IP related revenue does not exceed €7,500,000 for the taxpayer, and group total annual revenue does not exceed €50,000,000, using a five-year average for both calculations.

Qualifying intangible assets do not include business names, trademarks, brands and other marketing-related IP.

Qualifying profits include, *inter alia*:

1. royalties or other amounts resulting from the use of qualifying intangible assets;
2. licence income for the exploitation of intangible assets;
3. amounts derived from insurance or compensation in relation to the qualifying intangible assets;
4. trading income from the sale of qualifying intangible assets excluding capital gains which are not subject to taxation in Cyprus; and
5. IP income embedded in the sale of services, products, or from the use of procedures directly related to the assets.

8.2 What areas or points of tax law do you think are most likely to lead to disputes between digital businesses and the tax authorities, either domestically or cross-border?

One of the main areas that may lead to disputes is the determination of the accountable tax jurisdiction with many sellers avoiding registration in third countries, where they trade through platforms. This most likely makes tax enforcement, collection and identification of business tax functions (individuals and systems required and the use of financial data) difficult, especially with regard to cross-border trade in services and intangible assets.

9 Employment Law Implications for an Agile Workforce

9.1 What legal and practical considerations should businesses take into account when deciding on the best way of resourcing work in your jurisdiction? In particular, please comment on the advantages and disadvantages of the available employment status models.

According to Cyprus law, an employee is any person who works for another individual/company under an employment or training contract or under conditions where an employment relationship can be inferred between an employer and an employee.

Based on the above, any person who does not work full-time for another person on the basis of a contract and/or employment and/or training or under conditions where an employment relationship may be inferred between an employer and an employee, is considered as either self-employed, freelance or as an independent contractor.

Different benefits and/or advantages are provided to employees such as the fact that the employer is responsible for the actions performed by the employee, which were performed during their employment, and that the employer is responsible for providing a secure work system to the employee in order for any work to be performed.

However, outsourcing work to specialised individuals or organisations (acting as consultants) might shift the responsibility, either legal and/or professional, to them. It is understood that such terms should be clearly reflected in any agreements signed between businesses and said consultants. Furthermore, both resourcing work to employees or outsourcing work to contractors come with their own cost advantage benefits, depending on the nature of the work. Therefore, on some occasions, the employer must weigh the advantages and disadvantages based on the overall experience of the above parties and whether either party has the necessary tools/equipment/expertise to finalise any work.

9.2 Are there any specific regulations in place in your jurisdiction relating to carrying out work away from an organisation's physical premises?

There is no specific regulation in place; however, if it is either orally or contractually agreed between the employer and employee, and for whatever reason, work can be carried out away from an organisation's physical premises considering that all other measures (i.e. data protection) have been accounted for.

9.3 What long-term effects or changes are likely to result from the Covid-19 pandemic?

As in other EU countries, employers in Cyprus had to adapt to a new working environment and conditions due to the Covid-19 pandemic. The negative impact on the Cypriot economy has been fundamental. Because of the imposed strict lockdown, the majority of employers had to move to remote working, where possible, in an effort to maintain social distancing. The majority of employees had to work from home and combine work with personal and home life. Due to the pandemic, physical meetings have been replaced by telework and video conferencing. Employers also implemented a shift rotation system and more flexible-working arrangements.

Employers, who are obliged by law to provide employees with a safe and healthy working environment, took additional measures to prevent the spread of Covid-19 as regards to employees that had to physically work at their workplace.

The Covid-19 crisis is so deep that it will not only radically affect labour markets in the short and medium terms, but it can also change substantially the way work, in general, is organised. The adjustment to new working conditions demonstrates that remote working can form a key positive part of a new working culture in Cyprus and will likely remain in place.

Furthermore, employees and employers will most likely benefit from the extensive use of technology, software, telework applications and other means that were not being used before.

10 Top 'Flags' for Doing Business as a Digital Business in Different Jurisdictions

10.1 What are the key legal barriers faced by a digital business operating in your jurisdiction?

There are no legal barriers for now.

10.2 Are there any notable advantages for a digital business operating in your jurisdiction?

Cyprus is an EU Member State that is fully compliant with all international guidelines and regulations. Furthermore, it offers a tax system that is attractive, practical, efficient, stable and tested (whether that is for holding, financing, IP, services or trading activities). Its legal system is based on Common Law and Principles of Equity (which is easily understood and preferred) and, most importantly, Cyprus has all the necessary infrastructure to accommodate any needed level of business substance, with a comparative cost advantage when compared with other EU prime jurisdictions.

For further tax-related advantages and general incentives, see question 8.1, as well as question 7.1.

10.3 What are the key areas of focus by the regulator in your territory in respect of those operating digital business in your territory?

The key areas of focus by the regulators are employment matters, competition law, consumer and data protection, as well as intellectual property matters (the focus is on the portability of data over platforms, the exceptions to intellectual property such as copyright law, text and data mining, trade secrets and more).

11 Online Payments

11.1 What regulations, if any, apply to the online payment sector in your jurisdiction?

Cyprus conveyed the Payment Services Directive (EU) 2015/2366 and implemented such through the Payment Services Law 31(I)/2018 and the Electronic Money Law 2012, which merely provides for the development of innovative online and mobile payments, more secure payments and enhanced consumer protection. Therefore, in accordance with such laws, payments and electronic money services may only be provided within Cyprus.

11.2 What are the key legal issues for online payment providers in your jurisdiction to consider?

In order for **Payment Service Providers ("PSP")** such as **Credit Institutions ("CI")**, **Payment Institutions ("PI")** or **Electronic Money Institutions ("EMI")** to be fully operational, authorisation and a permit must be granted by the Central Bank of Cyprus. The key legal issues for online payment providers is that they need to be able to block any possible fraudulent activity and to secure electronic transactions by having strong security methods and measures in place so as to protect consumers' data and to prevent such activity. Additionally, payment service providers need to have in place a complaints procedure for consumers which can be used before seeking out-of-court redress or before launching any court proceedings. Such payment providers are obliged to respond, in writing, to any complaint within 15 business days.



Xenia Kasapi is an advocate and Head of the IP and Data Protection Department at E & G Economides LLC. Xenia holds a Bachelor of Laws from the University of Sheffield and a Master of Commercial Law from University of Bristol, and has successfully completed a professional course in Arbitration Law at the Chartered Institute of Arbitrators (Cyprus Branch). She is a member of the Cyprus Bar Association and a member of Arbitrators in the Chartered Institute of Arbitrators.

Xenia specialises in Information Technology (including e-commerce), data protection, intellectual property and commercial law. She has a broad commercial practice with particular focus in intellectual property law, data protection and e-commerce law. Xenia deals with all aspects of intellectual property law. She is also assisting companies with establishing and maintaining data privacy and security compliance matters and is drafting and reviewing commercial transaction documents.

Xenia is also a lecturer on Business Law and lectures to undergraduates at Cyprus College supported by the European University Cyprus.

E & G Economides LLC
17 Gr. Xenopoulou Street
3106 Limassol
Cyprus

Tel: +357 25 866 480
Email: xenia.kasapi@economideslegal.com
URL: www.economideslegal.com



George Economides is a partner at E & G Economides LLC. George obtained his Bachelor of Laws from the University of Westminster. Further to his studies, George has gained extensive experience in accounting, auditing and tax matters with a leading Cyprus accountancy firm.

His area of focus is tax, real estate, immigration and technology with IP & GDPR, and he is also involved in the firm's business development, marketing and operational activities. George is a member of the Cyprus Bar Association, a member of the Individual Tax and Private Client Committee of the International Bar Association and a member of the Society of Trust and Estate Practitioners (STEP).

He frequently works with HNWIs and international law firms and associates providing advice in restructurings, investments, acquisitions and disposals of either assets, intangible assets or real estate. He also represents and generally advises international companies and group of companies that have relocated and headquartered to Cyprus such as ship-owning, ship-management, e-commerce, investment, financial services and real estate companies.

E & G Economides LLC
17 Gr. Xenopoulou Street
3106 Limassol
Cyprus

Tel: +357 25 866 480
Email: george.economides@economideslegal.com
URL: www.economideslegal.com

E & G Economides LLC, based in Limassol, specialises in Corporate & Commercial, Mergers & Acquisitions, Banking & Finance and Capital Markets work. Litigation, Immigration, Real Estate, Financial Services, Data Protection, IP & Privacy and Private Client matters are also offered. The firm has continued to grow and expand its areas of practice with the support of an active network of global associates with longstanding ties to the corporate and financial communities.

The firm maintains a diverse client base and is regularly instructed by high-net-worth individuals, entrepreneurs, multinational corporations and tax firms, as well as global banking and credit institutions and both domestic and international transactions.

Clients' interests often have a global focus and the firm is frequently mandated to co-operate with international law firms on multijurisdictional projects and other cross-border engagements. Such assignments have been pivotal in yielding a globally minded perspective and have brought the firm in close co-operation with international law firms.

E & G Economides LLC is also ranked in prestigious professional and legal directories internationally.

www.economideslegal.com

E&G ECONOMIDES LLC

ICLG.com

Other titles in the ICLG series

Alternative Investment Funds
Aviation Finance & Leasing
Aviation Law
Business Crime
Cartels & Leniency
Class & Group Actions
Competition Litigation
Construction & Engineering Law
Consumer Protection
Copyright
Corporate Governance
Corporate Immigration
Corporate Investigations
Corporate Tax
Cybersecurity
Data Protection
Derivatives
Designs
Digital Business

Digital Health
Drug & Medical Device Litigation
Employment & Labour Law
Enforcement of Foreign Judgments
Environment & Climate Change Law
Environmental, Social & Governance Law
Family Law
Fintech
Foreign Direct Investment Regimes
Franchise
Gambling
Insurance & Reinsurance
International Arbitration
Investor-State Arbitration
Lending & Secured Finance
Litigation & Dispute Resolution
Merger Control
Mergers & Acquisitions
Mining Law

Oil & Gas Regulation
Patents
Pharmaceutical Advertising
Private Client
Private Equity
Product Liability
Project Finance
Public Investment Funds
Public Procurement
Real Estate
Renewable Energy
Restructuring & Insolvency
Sanctions
Securitisation
Shipping Law
Technology Sourcing
Telecoms, Media & Internet
Trade Marks
Vertical Agreements and Dominant Firms