

**BRIEF
INSIGHTS**

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NORWICH PHARMACAL ORDERS IN THE CYPRUS CONTEXT

Common law and equitable principles are adopted in Cyprus Law under Section 29(1)(c) **Courts Law 14/1960** as amended. Therefore, equitable remedies such as NPOs are in principle recognised and enforceable in Cyprus.

NPOs were specifically adopted by the Supreme Court of Cyprus in the case of *TBF (Cyprus) Ltd and others v Emporikis Meleton Sxediasmou kai Epichirimatikou Kefalaiou Anonimis Etairias and others*. In particular, the Supreme Court held that Cyprus courts have the jurisdiction to grant NPOs when all prerequisites are satisfied and the relevant procedure is followed.

It is up to the court's discretion to grant the NPO, weighing up various factors:

- the strength of the claim
- whether it is in public interest to grant the order
- whether making the order will prevent future wrongdoing
- whether the information could be obtained from another source
- the necessity of granting the disclosure order
- whether the grant of the order may reveal the names of innocent party
- the degree of confidentiality of the information sought
- the degree of difficulty in complying with the order
- whether the respondent knew or should have reasonably known that he/she/it was mixed up in a wrongdoing
- potential infringements of privacy and data protection rights.

Procedure followed by the Cyprus Courts

In Cyprus, a Norwich Pharmacal application can only be filed as an interim application. Therefore, an

applicant must satisfy all requirements provided under Section 32 of Court of Justice Law (14/60) and the relevant case law:

- There must be a serious issue to be tried;
- There must be a visible probability that the applicant is entitled to relief;
- Unless the relief is granted, it will be difficult or impossible for justice to prevail at a later stage;
- It is just, fair and equitable to grant the relief

NPO applications can be made by **summons** or **ex-parte**, provided that the applicant can satisfy the court for the urgency of the matter, usually that is the case when there is a strong possibility of further wrongdoing (e.g. to prevent asset alienations, bank transfers, tracing of funds).

An NPO application can be filed in the following instances:

- Under section 35 of the Brussels Regulation 1215/2012, an application may be filed to the courts of a Member State for provisional and protective measures available under the law of that Member State, even if the courts of another Member State have jurisdiction as to the substance of the matter.
- Under Section 9 of the Law 101/87 in support of international commercial arbitration proceedings.
- In the context of a case filed before Cyprus Courts
- In aid of proceedings filed outside the European Union

The purpose of this brief legal guide is to provide a general guideline on the subject and not to be considered, in any way, as legal advice. It is advisable to seek professional and legal advice on this subject before proceeding with any general information provided to you. For further clarifications and/or advice please contact your usual contact at E&G Economides LLC or at legal@economideslegal.com.