

1988 March 12

[STYLIANIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

- 1. CYPRIOT SHIPOWNERS UNION,
- 2. LOUCAS HADJIOANNOU ON BEHALF OF ALL THE MEMBERS IN THE ATTACHED LIST AND ON BEHALF OF ALL THE OFFICIALS OF THE TRADE UNION CYPRIOT SHIPOWNERS UNION.

Applicants,

v.

- 1. THE REGISTRAR OF TRADE UNIONS,
- 2. THE MINISTRY OF LABOUR AND SOCIAL INSURANCE,
- 3. THE DIRECTOR-GENERAL OF THE MINISTRY OF LABOUR AND SOCIAL INSURANCE,

Respondents.

(Case No. 462/85).

5 *Constitutional Law—Right to freedom of association—Constitution, Art. 21.2—The right to join and form a trade union—Ambit of—Should be interpreted in the light of International Labour Conventions—It includes right of the organisation to "elect their representatives in full freedom" and to organize "their administration"*

International Conventions—Trade unions—Right to form and join a trade un-

ion—*The European Convention for the Protection of Human Rights (Art. 11), ratified by Law 118/68—The Convention Concerning Freedom of Association and Protection of the Right to Organize (Convention 87 of the I.L.O.), ratified by Law 17/66, and The International Covenant on Civil and Political Rights (Art.22), ratified by Law 14/69—Nature, force and effect.* 5

Trade Unions—Amendment of Rules—Registration of the Trade Unions Law, 1965 (Law 71/65) section 18(3) and (4)—The Trade Unions Regulations, 1958, Regs 10, 11 and 12—If the altered rules contain the matters referred to in the Schedule, the Registrar of Trade Unions has no discretion, but must register the amendments. 10

Trade Unions—Amendment of Rules—Registration of—The Trade Unions Law, 1965 (Law 71/65), sections 18(3) and 49—Non compliance with the time limit prescribed in section 18(3)—Sanction for.

Executory act—Non registration of amendments of Rules of a Trade Union coupled with an invitation for discussions—It amounts to an omission and a negative act, justiciable under Article 146.1 of the Constitution. 15

Applicant 1 is a Trade Union. They took a resolution for partial amendment of their rules. The Registrar of Trade Unions refused to register the following amendment, i.e.: (a) The establishment of branches of the Union abroad, (b) The establishment of offices of the Union abroad, and (c) The adoption of a voting system in correlation to the ownership of tonnage of ships. 20

As far as other proposed amendments were concerned, the Registrar invited discussions between him and the applicants. Hence this recourse. 25

Held, annulling the sub judice decision: (1) The sanction for non compliance with section 18 of Law 71/65, i.e. to send the alterations for registration within the time-limit therein referred to, is to be found in section 49. It is not a refusal of registration.

(2) The non registration of the amendments (other than those hereinabove expressly referred to) coupled with an invitation for discussions is an omission and negative decision of executory nature. 30

(3) Article 21.2 of the Constitution, safeguarding "the right to freedom of association with others, including the right to form and to join trade unions" should be interpreted in the light of the International Conventions, 35

which, having been ratified by law, acquired superior force vis a vis domestic legislation in accordance with Article 169.3 of the Constitution.

5 (4) Such Conventions are: (a) The Convention Concerning Freedom of Association and Protection of the Right to Organize (Convention 87 of I.L.O.) ratified by Law 17/66, (b) The International Covenant on Civil and Political Rights (Article 22), ratified by Law 14/69 (c) The European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Law 118/68—Article 11.

10 (5) The aforesaid Conventions are not subject to any condition of reciprocity. They are self executing. They are not pious declarations. They are of superior force. They do not annul domestic legislation, but they displace it.

15 (6) The scope and meaning of freedom of association includes, in relation to trade unions, inter alia, the right to "form" and to "join" a trade union. The "right to form and to join trade unions" should not be taken literally but must be interpreted in accordance with International Labour Law. Freedom of association includes the right to workers' and employers' organisations "to elect their representatives in full freedom" and to organise "their administration".

20 (7) It follows that no restriction can be imposed by Domestic Legislation on the right of workers' or employers' organisations to draw up their constitutions and rules and to organise their administration and activities.

25 (8) The matter of registration of amendments of Rules of a Trade Union is governed by section 18 of Law 61/75, and Regulations 10,11 and 12 of the Trade Union Regulations, 1968. The material words of paragraph 3 of section 18 are: (and shall be registered by the Registrar), and the matters set out in the Schedule. The words of the Law are plain and must be followed. The duty and power of the Registrar is to ascertain whether in the altered rules provision is made in respect of the several matters contained in the Schedule. If yes, then the registration is a ministerial act and not a discretionary one. The Law does not confer any discretion on the Registrar. Neither do the relevant Regulations confer discretion on the respondent Registrar to register the altered rules. Had it been otherwise, such provisions would have been ultra vires the enabling statute.

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Cases referred to:

Orphanides and Another v. The Improvement Board of Ayios Dhometios
(1979) 3 C.L.R. 466;

Ioannides and Others v. The Republic (1979) 3 C.L.R. 295;

Attorney-General v. Georghiou (1984) 2 C.L.R. 251; 5

Malachtou v. Armeftis and Another (1987) 1 C.L.R. 207;

Pavlou and Another v. Chief Returning Officer and Another (1987) 1
C.L.R. 252;

National Union of Belgian Police, Publ. Court B, Vol. 17;

Croxford v. Universal Insurance Co. [1936] 2 K.B. 253; 10

Komodromos and Others v. The Registrar of Trade Unions (1983) 3
C.L.R. 495;

Greek Case 2449/1986, The Legal Tribune, Vol. 35, Part 3-4, p. 401.

Recourse.

Recourse against the decision of respondent 1 whereby appli- 15
cants' request for the partial alteration of the rules of the Cypriot
Shipowners Union was turned down.

Chr. Ph. Clerides, for the applicants.

A. Papasavvas, Senior Counsel of the Republic, for the re- 20
spondents.

Cur. adv. vult.

STYLIANIDES J. read the following judgment. The applicant No. 1 is a trade union duly registered, under The Trade Unions Law.

5 The applicant No. 2 is the Chairman of the said union and takes this recourse on behalf of the members of the union and all its Officials.

The applicant trade union on 13.2.84 in full compliance with rule 16 of its Rules, providing for their alteration, duly took a resolution for partial alteration of a number of the said rules.

10 On 23.2.84 application in the prescribed form for the registration of the said partial alteration of the rules of the union, duly signed by the Secretary and seven members, as provided by Regulations 10 and 11 of the Trade Unions Regulations 1968, was sent to the Registrar. It is, however, rubber stamp dated as received on 21.3.84.

The Registrar - respondent 1 on 4.2.1985 sent to the Secretary of the applicant union at its registered address the following letter:-

20 "Αναφέρομαι στην αίτηση σας για εγγραφή μερικής τροποποίησης του καταστατικού της Ένωσης Κυπρίων Εφοπλιστών' με ημερομηνία 23.2.1984 και σας πληροφορώ τα εξής:

1. Μετά από εξέταση της αίτησης σας κατέληξα στο συμπέρασμα ότι οι τροποποιήσεις του καταστατικού της Ένωσης οι οποίες αφορούν:

(α) την ίδρυση Παραρτημάτων της Ένωσης στο εξωτερικό.

(β) τη δημιουργία Γραφείων της Ένωσης στο εξωτερικό και

(γ) το δικαίωμα των μελών να έχουν περισσότερες της μιας ψήφου,

δεν μπορούν να εγγραφούν σύμφωνα με τις πρόνοιες του περί Συντεχνιών Νόμου του 1965 (Ν. 71/65).

2. Με βάση τα πιο πάνω, θεωρώ χρήσιμο, όπως 5
επικοινωνήσετε μαζί μου για διευθέτηση συναντήσεως
προς συζήτηση των υπολοίπων τροποποιήσεων του
καταστατικού της Ένωσης οι οποίες περιέχονται στην
αίτησή σας με ημερομηνία 23.2.1984".

The applicants being aggrieved filed this recourse whereby they 10
seek a declaration that the act or decision contained in the aforesaid
letter of 4.2.85 is null and void and of effect whatsoever.

Counsel for the applicants submitted that the act or decision of
the Registrar, contained in the aforesaid letter, was a refusal of
registration of all the alterations, which were partial alterations of 15
the rules, and the rules after the alteration contained the provi-
sions in respect of several matters in the schedule of the law.

That the sub judice decision was taken in excess and or abuse
of power. The Registrar acted under a misconception of law; and
finally that the sub judice decision is contrary to Article 21 of the 20
Constitution of the Republic and Article 11 of the European Con-
vention of Human Rights.

Counsel for the respondents, on the other hand, submitted that
there was no strict compliance with paragraph 3 of section 18 of
The Trade Unions Law, 1965 (Law No 71/65), in that the appli- 25
cation for registration and the alterations sought to be registered
were not sent to the Registrar within 14 days of the making of
such alteration and the prescribed fee was not prepaid.

That the Registrar has power, under section 11 of the Law to
carry out an inquiry or to ask further information in order to satisfy 30
himself that the application is in conformity with the provisions of

That there was no decision in paragraph 2 of the letter of the Registrar which could be challenged before this Court.

5 That the provision in the amended rules, with regard to the correlation of the votes to the ownership of the tonnage of ships is contrary to the democratic norms, which should apply in the trade union movement.

10 That the establishment of branches or offices abroad would make the application of the Law and the performance of the duties of the Registrar impossible.

15 In the course of the hearing, rightly in my view, learned counsel for the respondents withdrew his objection based on the provisions of section 18(3) of the Trade Unions Law. A failure to send the alterations within 14 days does not preclude their registration. The sanction for any delay is set out in section 49, which provides for punishment, and in section 18(3) itself where the alteration takes effect only from the date of registration.

20 He further conceded that, with the exception of the alterations to which specific reference is made in paragraph 1 of the letter of 4.2.85 (the setting up of branches and offices abroad and the votes of the members), the alterations were not objectionable and the Registrar would have registered them and only invited the applicants to discuss them, in order to ascertain whether in view of his refusal, contained in paragraph 1, they would insist for the
25 registration of the alterations to which paragraph 2 refers.

30 The non-registration of these amendments and the invitation for discussion is nothing but a refusal to register. It is an omission and a negative decision taken by a public authority, which produces legal results affecting the applicants and is amenable to the jurisdiction of this Court, under Article 146 of the Constitution - (*Orphanides & Another v. The Improvement Board of Ayios Dhometios* (1979) 3 C.L.R. 466).

This, being an unfavourable decision, as set out in the letter of the respondent 1, which is admittedly unjustified in fact and in Law, it was taken in abuse and excess of power and it will be annulled.

Section 11 refers to the original registration of a trade union and not to registration of alterations of the rules and therefore I need not deal with it. 5

The second part of the partial alterations sought to be registered refer to the possibility of establishing branches and offices abroad and the voting entitlement of the members. 10

Rule 2(c) as amended reads:-

"Προς ευχερεστέραν παρακολούθησιν θεμάτων αφορώντων την Ένωσιν δυνατόν να διατηρώνται Γραφεία και Παραρτήματα εις πόλιν ή πόλεις του Εσωτερικού ή του Εξωτερικού". 15

With regard to the votes of the members, the amended rule 8 provides that the members of the union have equal rights except the right to vote, which is as per rule 11(i).

The amended rule 11(1) reads:-

"Η Γενική Συνέλευσις αποφασίζει κατ' απόλυτον πλειοψηφίαν. Έκαστον μέλος δικαιούται μίας ψήφου ανά 500 πλήρεις Κ.Ο.Χ." 20

And rule 26(b) reads:-

" Ωσαύτως η Ένωσις διαλύεται δι' αποφάσεως των 2/3 του συνόλου των εγγεγραμμένων μελών της Ενώσεως εκπροσωπούντων τα 2/3 του συνολικού αριθμού των ψήφων της Ενώσεως λαμβανομένης ..." 25

The applicants No. 1 is a Union of Employers - Ship Owners.

The right of freedom of association and the right to organise are enshrined and safeguarded by Article 21 of our Constitution, the material part of which reads as follows:-

5 "1. Every person has the right to freedom of peaceful assembly.

2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this Article, no person shall be compelled
10 to join any association or to continue to be a member thereof.

3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public
15 order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person, whether or not such person participates in such assembly or is a member of such association.

20 4. Any association the object or activities of which are contrary to the constitutional order is prohibited."

The Universal Declaration of Human Rights, adopted by the United Nations on 10.12.1948, although not a binding treaty, embodies principles generally accepted as a common standard of achievement of all peoples and all nations. Freedom of association and the right to form and to join trade unions are proclaimed
25 in two separate provisions: Article 20, which appears in the catalogue of civil liberties, and Article 23, which forms part of a number of social and economic rights enumerated in Articles 22 to 25.

The question of "freedom, of association" was placed on the agenda of the 30th Session of the International Labour Conference (1947), at the request of the Economic and Social Council of the United Nations. The Economic and Social Council had previously received from the World Federation of Trade Unions a request to place on its agenda the question of "guarantees for the exercise and development of trade unions rights", but, after examination of the question, decided to request that it be placed on the agenda of the International Labour Conference adopted a resolution concerning the freedom of association and protection of the right to organise and to bargain collectively. 5 10

The General Conference of the I.L.O. at its 31st Session adopted on the 9th July, 1948, the Convention Concerning Freedom of Association and Protection of the Right to Organise known as Convention 87 of I.L.O. 15

This Convention was ratified by Law No. 17 of 1966 and which was published on 2/5/1966 and thus it is part of our Legal Order with statutory force and came into force twelve months after the date on which its ratification by the Republic of Cyprus has been registered with the Director - General of the International Labour Office—(see Articles 14 and 15 of the Convention). 20

Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms explicitly proclaims and safeguards freedom of association including the right to form and the right to join trade unions. 25

Reference may, also, be made to Article 8 of the International Covenant on Economic, Social and Cultural Rights and Article 22 of the International Covenant on Civil and Political Rights, ratified in this country under Article 169.3 of the Constitution, by Law 14/1969, and entered into force on 23rd March, 1976. 30

The aforesaid Conventions and Covenants; which were ratified under Article 169.3 of the Constitution, became part of our Legal Order with superior force over any Municipal Law, both anterior and posterior, as from the date that they came into force

5 under International Law. The Constitution under Article 179.1 is the supreme law of the Republic. A Treaty or Convention is inferior to the Constitution, but as aforesaid is of higher hierarchical legal value than the Domestic Legislation. They certainly do not

10 not *stricto sensu* repeal the Municipal Law, but has only superior force to it, in the sense that it has precedence in its application resulting in the non application of inferior law, enacted either prior or subsequent to the ratification of the International Convention. The condition of reciprocity does not apply in the above International

15 Conventions and Covenants, as their object is not to create any subjective or reciprocal rights to the State Parties themselves, but its objective and intent is the promotion of values and the protection of human rights. They are self executing and their provisions are not pious declarations. (See *Ioannides & Others v. Republic* (1979) 3 C.L.R. 295; *Attorney-General v. Georghiou* (1984) 2 C.L.R. 251, at pp. 287, 294 and 302-303, *Toulla G. Malachtou v. Christodoulos G. Armeftis and Another*, (1987) 1

20 C.L.R. 207 and my Judgment in *Pavlos Pavlou and Another v. The Chief Returning Officer and Another*, (1987) 1 C.L.R. 252.

25 The scope and meaning of freedom of association includes, in relation to trade unions, inter alia, the right to "form" and to "join" a trade union.

In interpreting the meaning and scope of the notion of "freedom of association" in Article 21 of the Constitution, in relation

30 to trade unions, regard should be had to the meaning given to this term in Article 11 of the European Convention of Human Rights and particularly to the meaning given in the I.L.O. Convention of

1948 (No. 87), Concerning Freedom of Association and Protection of the Right to Organise. The "right to form and to join trade unions" should not be taken literally but be interpreted in accordance with International Labour Law—(see case of *National Union of Belgian Police* Publ. Court B. Vo. 17).

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Among the elements of the freedom of association, as enunciated in Part I of the 1948 Convention, Article 3 of that Convention includes the right of workers' and employers' organisations "to elect their representatives in full freedom" and to organise "their administration".

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Article 3 of the Convention of 1948, (No. 87) reads:-

"1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

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2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."

Article 8 which may be said that it refers to "legality", was confined meticulously by its drafters so as to state only respect to the Law of the Land; but in the second paragraph thereof it plainly enunciated that the Law of the Land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

20

Paragraph 3 of Article 22 of the Covenant of Civil and Political Rights expressly refers to the 1948 Convention and expressly states that nothing in that Article shall authorize State Parties to the I.L.O. Convention of 1948 Concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the Law in such a manner as to prejudice the guarantees provided for in that Convention.

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From all the above it us plain that there is a very close affinity between our Constitution and the International Conventions and Covenants to which reference has been made. The aforesaid international instruments are not only relevant, but should serve as a
5 guide to the interpretation of our constitutional provisions.

The Trade Unions Law and any provisions thereof, which are repugnant or inconsistent, either to the Constitution, or to the aforesaid international instruments, are not valid or enforceable, as ordinary legislation is displaced by International Treaties or
10 Conventions and cannot survive if repugnant to or inconsistent with the Constitution.

No restriction can be imposed by Domestic Legislation on the right of workers or employors οργανισμοις to draw up their constitutions and rules and to organise their administration and
15 activities.

The right to vote in the amended constitution correlates to the members' ownership of tonnage in ships. Nevertheless, for the dissolution of the union, the votes of the 2/3 of the members are, also required and not only the 2/3 of the votes.

20' Has the Registrar the discretion and the power to register or not partially altered rules of a trade union under the Domestic Law? The matter is governed by section 18(3) and (4) of the Trade Unions Law, which read as follows:-

25 "(3) Αντίγραφο παντός νέου άρθρου του καταστατικού ως και πάσης τροποποίησεως γενομένης εις το καταστατικόν εγγεγραμμένης συντεχνίας αποστέλλεται τω Εφόρω εντός δεκατεσσάρων ημερών από της ημερομηνίας καθ' ην εγένετο το νέον άρθρον ή η τροποποίησις του καταστατικού, και εγγράφεται υπό
30 του Εφόρου τη καταβολή νέου νομομισμένου τέλους.

Παν νέον άρθρον και πάσα τροποποιήσις του καταστατικού τίθενται εν ισχύ από της εγγραφής αυτών εκτός οσάκις καθορίζεται μεταγενεστέρα ημερομηνία εν αυτώ τούτω τω καταστατικώ.

(4) Το καταστατικόν εγγεγραμμένης συντεχνίας δεν δύναται να τροποποιηθή κατά τοιούτον τρόπον ώστε τούτο να μη διαλαμβάνη οιονδήποτε των εν τω Παραρτήματι καθοριζομένων ζητημάτων." 5

The Trade Unions Regulations, 1968, made pursuant to section 58 of Law 71/65, were published in the Cyprus Gazette under No. 681, dated 25/9/68. 10

Regulations 10, 11 and 12 refer to the Registration of partial alteration of the rules and the issue of certificate of registration. They read as follows:-

"10. Τροποποιήσις, του καταστατικού εγγεγραμμένης συντεχνίας δύναται να είναι είτε- 15

(α) μερική τροποποιήσις, συνισταμένη εις την προσθήκην εις το υφιστάμενον καταστατικόν νέου άρθρου ή μέρους άρθρου ή άρθρων, ή εις την αντικατάστασιν οιονδήποτε των υφισταμένων δια νέου άρθρου ή μέρους άρθρου ή άρθρων ή εις την διαγραφήν οιονδήποτε των υφισταμένων άρθρων ή μέρους αυτού, άνευ οιασδήποτε αντικατάσεως αυτού, ή εις πλείονας της μιας ή απάσας τας μεθόδους ταύτας είτε 20

(β) πλήρης τροποποιήσις συνισταμένη εις την αντικατάστασιν του υφισταμένου καταστατικού διά νέου πλήρους καταστατικού. 25

Αίτησις προς εγγραφήν μερικής τροποποιήσεως του καταστατικού υποβάλλεται υπό του Γραμματέως και επτά, ή εν περιπτώσει εμπιπτούση εις την επιφύλαξιν του εδαφίου 30

(2) του άρθρου 8 του Νόμου τριών μελών της συντεχνίας, δέον να είναι εν τω Τύπω αρ. 7 εν τω Πρώτω Πίνακι και συνοδεύηται υπό εντύπου αντιγράφου του υφισταμένου καταστατικού και υπό των ακολούθων εγγράφων:

5 (α) εάν η μερική τροποποίησις συνίσταται εις την προσθήκην ή αντικατάστασιν νέου άρθρου ή μέρους άρθρου του καταστατικού, δύο αντιγράφων του τοιούτου άρθρου/ή άρθρων ή μέρους άρθρου ή των τοιούτων άρθρων, εκάστου αντιγράφου σημειουμένου "B" και υπογεγραμμένου υφ' 10 εκάστου των αιτητών.

(β) εάν η μερική τροποποίησις συνίσταται εις την διαγραφήν οιουδήποτε των άρθρων του καταστατικού άνευ οιασδήποτε αντικαταστάσεως, δύο αντιγράφων της 15 διά την τοιαύτην διαγραφήν αποφάσεως, εκάστου αντιγράφου σημειουμένου "B" και υπογεγραμμένου υφ' εκάστου των αιτητών.

Προτού εγγράψη την μερικήν τροποποίησιν του καταστατικού ο Έφορος εξακριβού ότι το καταστατικόν της συντεχνίας, εάν τροποποιηθή συμφώνως προς την προτεινομένην μερικήν τροποποίησιν, θα προβλέπη περί πάντων 20 των ζητημάτων τα οποία απαιτούνται υπό του Νόμου όπως προβλέπωνται εν τω καταστατικώ εγγεγραμμένης συντεχνίας.

12. Το πιστοποιητικόν εγγραφής μερικής 25 τροποποιήσεως καταστατικού δέον να είναι εν τω Τύπω Αρ. 8 εν τω Πρώτω Πίνακι και αποσταλή εις τον Γραμματέα της συντεχνίας συνημμένον εις εν των αντιγράφων του νέου άρθρου ή των νέων άρθρων του καταστατικού ή όταν η τροποποίησις συνίσταται εις απλήν 30 διαγραφήν, συνημμένον εις το παλαιόν καταστατικόν."

(English version:

"10. An alteration of the rules of a registered trade union may be either-

(a) a partial alteration, consisting of the addition of a new rule or part of a rule or rules to the existing rules, or of the substitution of a new rule or part of a rule or rules for any of the existing rules, or of a deletion of any of the existing rules or any part thereof without any substitution or of more than one or all of those modes; or 5

(b) a complete alteration consisting of the substitution of an entire set of rules for the existing set of rules. 10

11. An application for the registration of a partial alteration of rules shall be made by the secretary and seven members of the trade union, and shall be in the Form No. 7 in the First Appendix hereto, and shall be accompanied by a printed copy of the existing rules, and by the following documents:- 15

(a) if the partial alteration consists of the addition or substitution of a new rule or part of a rule or rules, two copies of such rule or part of a rule or rules, each copy being marked B, and signed by each of the applicants;

(b) if the partial alteration consists of the deletion of any of the rules without any substitution, two copies of the resolution for such deletion, each copy being marked B, and signed by each of the applicants; 20

The Registrar, before registering the partial alteration of rules shall ascertain that the rules of the trade union, if altered in accordance with the proposed partial alteration, will provide for all the matters required by the Law to be provided for in the rules of a registered trade union. 25

12. The certificate of registration of a partial alteration shall be in the Form No. 8 in the First Appendix hereto and shall be forwarded to the secretary of the trade union attached to one of 30

the copies of the new rule or rules, or, when the alteration consists of deletion merely, attached to the old set of rules.")

The material words of paragraph 3 of section 18 are:

5 "και εγγράφεται υπό του Εφόρου" (and shall be registered by the Registrar) and the material part of paragraph 4 is that the altered rules shall contain all the matters set out in the Schedule.

The words of the Law are plain and must be followed.

10 *In Croxford v. Universal Insurance Co.*, [1936] 2 K.B. 253, at p. 281 Scott L.J. said:-

"Where the words of an Act of Parliament are clear, there is no room for applying any of the principles of interpretation, which are merely presumptions in cases of ambiguity in the Statute".

15 The words of section 18(3) are clear and unambiguous.

The duty and power of the Registrar is to ascertain whether in the altered rules provision is made in respect of the several matters contained in the Schedule. If yes, then the registration, is a ministerial act and not a discretionary one. The Law does not confer any discretion on the Registrar. Neither do the relevant Regulations confer discretion on the respondent Registrar to register the altered rules. Had it been otherwise, such provisions would have been ultra vires the enabling statute. The provisions of the Law are mandatory. (See *Georghios Komodromos and Others v. The Registrar of Trade Unions* (1983) 3 C.L.R. 495.)

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30 The drawing of the constitution and rules of trade unions and the organisation of their administration and activities are within the right of freedom of association, safeguarded by the Constitution and the international instruments to which I have referred, and any interference by the Registrar is an impermissible

restriction upon such rights, which is contrary to the Convention 87 of the I.L.O.

Useful reference may be made, also to a recent case in Greece, Case No. 2449/1986, reported in the Legal Tribune, Vol. 35, Part 3-4, March- April 1987, p. 401, where it was held that under Article 28(1) of the Greek Constitution (which is similar to our Article 169.3) the provisions of Article 11 of the Treaty of Rome of 4/11/50 and of I.L.O. Convention 87, ratified by the Greek State, had superior force to the Domestic Legislation and that the organisations of workers and employers are free to determine matters relating to their administration and any State, had superior force to the Domestic Legislation and that the organisation were altered so as that all the members of the committees be elected amongst the representatives of the societies - members, who were not Greek citizens. Section 107 of Introductory Law to the Civil Code restricted the members of foreigners to an equal number to Greek citizens. The Greek Court relying on Articles 11 and 14 of the Convention of Rome and Article 3 of I.L.O. Convention 87, in conjunction with article 28 para.1 of the Greek Costitution, declared that the alteration was lawful.

Before concluding I would like to stress that it is the duty, not only of the Courts, but all authorities of the Republic, including executive - administrative and legislative, to secure within the limits of their respective competence the efficient application, both of the Part II of the Constitution - Fundamental Rights and Liberties - and the ratified International Conventions for the enjoyment of the rights and freedoms declared and safeguarded thereby.

For all the afore reasons the sub judice decision is declared null and void and of no effect whatsoever.

Let there be no order as to costs.

*Sub judice decision annulled.
No order as to costs.*