

1980 September 23

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANDREAS AZINAS,

*Applicant,*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE COUNCIL OF MINISTERS,

*Respondent.*

(Case No. 174/80).

*Co-operative Societies—Registrar—Power of appointment, interdiction and dismissal of—Lies with the Council of Ministers—Section 3(1) of the Co-operative Societies Law, Cap. 114 (as amended by Law 28/59) read in conjunction with section 19 of the Interpretation Law, Cap. 1.*

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*Co-Operative Societies—Registrar—Interdiction—Power to appoint Deputy Registrar during the period of the Registrar's interdiction—Lies with the Council of Ministers by virtue of sections 19 and 20 of the Interpretation Law, Cap. 1—Powers of Deputy Registrar—Whether necessary for Council of Ministers to define such powers.*

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*Interpretation Law, Cap. 1—“Person” in section 19 of the Law—Whether it includes the Governor (now the Council of Ministers)—“Suspension” in the said section 19—Whether it, also, means “interdiction”.*

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*Words and Phrases—“Interdiction” (“διαθεσιμότης”)—“Discretionary interdiction” (“δυσνητική άργία”)—“Suspension” in section 19 of the Interpretation Law, Cap. 1.*

*Public Officers—Interdiction—Registrar of Co-operative Societies.*

The applicant in this recourse has been holding the post of Registrar of the Greek Co-operative Societies since March, 1961, having been appointed to such post by the Council of

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Ministers under the provisions of the Co-operative Societies Law, Cap. 114 (as amended by Law 28/59). By virtue of a letter\* dated 5th June, 1980, signed by the Secretary of the Council of Ministers, he was informed that he was interdicted from his post as Registrar by the Council of Ministers, due to pending criminal proceedings against him, and that Michael Erotokritos was appointed as Deputy Registrar of Co-operative Societies during the period of his interdiction. Hence this recourse.

10 Counsel for the applicant mainly contended:

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- (a) That there was no power to dismiss the applicant under the provisions of the Co-operative Societies Law, Cap. 114 and in consequence no power to interdict him, in view of the fact that interdiction is an intermediate measure.
  - (b) That the decision to interdict applicant was illegal in that what should have been imposed on him, was not interdiction (“δισθεσιμότης”) but “ἀργία” as it is known under the principles of the Greek Administrative Law.
  - (c) That once the applicant was wrongly and illegally interdicted it follows that the appointment of Mr. Erotokritos to act as Deputy Registrar was illegal and of no effect.
  - (d) That the Council of Ministers had no power to appoint Mr. Erotokritos as Deputy Registrar as there was no provision in Cap. 114 for such an appointment.
  - (e) That even if the Court reached the conclusion that the appointment of Mr. Erotokritos was legal there was failure on the part of the Council of Ministers to confer on such person specific powers.

*Held*, that though under section 3 of Cap. 114 (as amended by section 3(1)\*\* of Law 28/59) provision is made for the appointment by the Governor (now the Council of Ministers) of a person to the post of Registrar of Greek Co-operative Develop-

\* Quoted in full at p. 514 *post*.

\*\* Quoted at p. 522 *post*.

ment without any express provision for the termination of his appointment or for any intermediate measures to be taken against him, such law should be read in conjunction with section 19\* of the Interpretation Law, Cap. 1 which provides that the power which any Law confers upon any person or public authority to make appointments to any office or place “shall be construed as including the power to determine any such appointment and to suspend any person appointed ..... and to appoint another person temporarily in the place of any person so suspended”; that the Governor (now the Council of Ministers) being the person vested with the power to appoint a Registrar of Co-operative Societies falls within the definition of a person under the said section 19 of Cap. 1, in the absence of any provision to the contrary; that, therefore, there was power in the Council of Ministers to place the applicant under “διαθεσιμότητα” which has been interpreted as interdiction and which, in any event, is within the spirit and the meaning of the word “suspension” appearing in section 19; and that, accordingly, contention (a) must fail.

(2) That “διαθεσιμότης”, (“interdiction”) under our Law, corresponds to “δυσητική άργία” (“discretionary interdiction”) under Greek Law; and that, therefore, the argument of Counsel that the decision of the Council of Ministers to place the applicant in “διαθεσιμότητα” instead of “άργία” was wrong must fail. (*Veis and Another v. Republic* (1979) 3 C.L.R. 390 at p. 405 adopted).

(3) That since there was power in the Council of Ministers to interdict the applicant, the argument that the appointment of Mr. Erotokritos could not be made once there was no temporary vacancy in the post must fail; that the Council of Ministers had power, under the provisions of sections 19 and 20\*\* of the Interpretation Law, Cap. 1, to appoint somebody to perform the duties of Registrar; that once such person was appointed to act in the post of Registrar, in the place of the applicant for the period of his interdiction, his powers appear in the Co-operative Societies Amending Law of 1959 (Law 28/1959), section 3(2); that, therefore, it was not necessary for the Council of Ministers to define such powers unless the Council wished to

\* Quoted in full at pp. 522-23 *post*.

\*\* Quoted at pp. 523-24 *post*.

limit such powers; that once no such limitation appears in the decision appointing him, it must be presumed that he is appointed to exercise all powers vested in him under the law; and that, accordingly, contentions (c), (d) and (e) must, also, fail.

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*Application dismissed.*

Cases referred to:

*Veis and Another v. Republic* (1979) 3 C.L.R. 390 at pp. 405, 412, 413.

**Recourse.**

10 Recourse against the decision of the respondent to interdict applicant from the post of Registrar of Co-operative Societies and appoint Mr. M. Erotokritos as Deputy Registrar of Co-operative Societies.

15 *L.N. Clerides with St. Charalambous and C.L. Clerides,*  
for the applicant.

*R. Gavrielides,* Counsel of the Republic, for the respondent.

*Cur. adv. vult.*

SAVVIDES J. read the following judgment. Applicant in the present recourse seeks for the following declarations:

20 "1. A declaration of the Court that the act and/or decision of the Council of Ministers communicated to applicant by letter dated the 5.6.1980 whereby applicant is interdicted from the post of Registrar of Co-operative Societies should be declared null and void and of no effect  
25 whatsoever.

2. A declaration of the Court that the act and/or decision of the Council of Ministers to appoint Mr. Michael Erotokritos of the Ministry of Commerce and Industry as Deputy Registrar of Co-operative Societies should be  
30 declared null and void and of no effect whatsoever."

The applicant is holding the post of the Registrar of the Greek Co-operative Societies. He was appointed to such post by the Council of Ministers on 9.3.1961 under the provisions of the Co-operative Societies Law, Cap. 114, as amended by Law  
35 28/59, and such appointment was communicated to him by letter dated 10th March, 1961. At the material time he was also holding the post of the Commissioner of Co-operative Development since the 1st December, 1960 by virtue of an appointment

from the Greek Communal Chamber which was set up under the provisions of the Constitution.

Applicant was holding both these posts till the 5th June, 1980 when, by virtue of a letter dated 5th June, 1980 signed by the Secretary of the Council of Ministers, he was informed that he was interdicted from his post as Registrar by the Council of Ministers, due to pending criminal proceedings against him, and that Michael Erotokritos was appointed as Deputy Registrar of Co-operative Societies during the period of his interdiction. Such letter which is *exhibit* 3 before the Court, reads as follows:

“Κύριο  
Ἄνδρέα Ἀζίνα,  
Ἐφορο Συνεργατικῶν Ἐταιρειῶν,  
Λευκωσία.

Ἐχω ἐντολή νά σᾶς πληροφορήσω ὅτι τὸ Ὑπουργικὸ Συμβούλιο στὴ σημερινή συνεδρίασή του ἀπεφάσισε νά σᾶς θέσει σὲ διαθεσιμότητα ἀπὸ τὴ θέση σας ὡς Ἐφόρου Συνεργατικῶν Ἐταιρειῶν, ὕστερα ἀπὸ τὴν ἀσκηση ποινικῆς διώξεως ἐναντίον σας. Τὸ Ὑπουργικὸ Συμβούλιο διόρισε τὸν κ. Μιχαὴλ Ἐρωτόκριτο, Πρῶτο Βιομηχανικὸ Λειτουργὸ τοῦ Ὑπουργείου Ἐμπορίου καὶ Βιομηχανίας, ὡς Ἀναπληρωτὴ Ἐφορο Συνεργατικῶν Ἐταιρειῶν.

Συναφῶς σᾶς πληροφορῶ ἐπίσης ὅτι τὸ Ὑπουργικὸ Συμβούλιο ἀπεφάσισε τὸ διορισμὸ Ἐρευνητικῆς Ἐπιτροπῆς, δυνάμει τοῦ περὶ Ἐρευνητικῶν Ἐπιτροπῶν Νόμου, Κεφ. 44, γιὰ τὴ διεξοδικότερη ἐξέταση τοῦ ὅλου θέματος τοῦ συνεργατικοῦ κινήματος.

(Κώστας Κλεάνθους)

Γραμματεὺς Ὑπουργικοῦ Συμβουλίου.”

“Mr. Andreas Azinas  
Registrar of Co-operative Societies,  
Nicosia.

I am directed to inform you that the Council of Ministers at its today's meeting has decided to interdict you from your post of Registrar of Co-operative Societies following the institution of criminal proceedings against you. The Council of Ministers has appointed Mr. Michael Erotokritos, Senior Industrial Officer of the Ministry of Commerce and Industry as Acting Registrar of Co-operative Societies.

In this connection I also inform you that the Council of Ministers has decided to appoint a Commission of Inquiry under the Commissions of Inquiry Law, Cap. 44 for the more thorough investigation of the whole affair of the co-operative movement.

(C. Cleanthous)

Secretary Council of Ministers”).

On the 6th June, 1980 he was also informed by the Public Service Commission that in view of criminal proceedings instituted against him they decided that it would be in the public interest to interdict him pending the result of the case against him. The question of his interdiction from the post of the Commissioner of Co-operative Development is the subject matter of another recourse under No. 175/80 which is also pending before this Court. Therefore, I need not deal in this judgment with his interdiction from the post of the Commissioner of Co-operative Development by the Public Service Commission, as same is not in issue in the present proceedings. What the present recourse is concerned with, is his interdiction from the post of Registrar of Co-operative Societies and the temporary appointment of a deputy, pending the result of the criminal proceedings instituted against him.

The grounds of law on which the application is based and which are set out in the application, are as follows:

As regards the interdiction.

“1. There is a legislative lacuna as to which is the competent organ to interdict applicant from the post of Registrar of Co-operative Societies.

2. (a) By section 3 of the Co-operative Societies Law the Greek Registrar of Co-operative Societies is appointed by the Governor, but there is no provision in the said Law for either interdiction on the ground that criminal proceedings have been instituted against him.

(b) It is contended that in the absence of such provision, the Council of Ministers had no competence to interdict the applicant.

3. Even if one presumes that the power to appoint includes the power to dismiss it is submitted:

- (a) That interdiction is not a dismissal but an interim measure which can only be exercised if legislative provision exists for its exercise.
- (b) In any case the President of the Republic and not the Council of Ministers may have had the right of dismissal. 5
4. It is therefore contended that the decision taken is contrary to law, ultra vires and unconstitutional.

*As regards the appointment of Mr. Erotokritos.*

1. It is contended that if prayer 1 of the recourse is accepted then the appointment of Mr. Erotokritos is void ab initio. 10
2. It is further contended that there is no provision in the Co-operative Societies Law, Cap. 114 for the appointment of a Deputy Registrar of Co-operative Societies and hence the decision is contrary to the provisions of Cap. 114. 15
3. It is further contended that even if such power existed it could only have been exercised by the President of the Republic alone and not by the Council of Ministers and then by a special order published in the official Gazette, which never happened in this case". 20

In dealing with the legal grounds concerning the first part of the recourse, that is applicant's interdiction, counsel for the applicant elaborated on the various legal grounds. His first submission was that there was no legislative provision in Cap. 25  
114 of the Co-operative Societies Law, as amended by Law 28/59, which empowers any organ to interdict the applicant and in particular there is no provision for the termination of the services of the applicant. He submitted that in the absence of a legislative provision in the law, there exists a legislative lacuna 30  
and nobody has, under the law, the power of interdicting the applicant. He argued that under the provisions of section 3 of Cap. 114 the Co-operative Societies Law, there was power vested in the Governor to appoint a person as Registrar of Co-operative Societies and confer on such person all or any of 35  
the powers of the Registrar under the said law, but no power is given for the termination of his appointment. In consequence, there is only power of appointment without a power of termina-

tion of appointment or interdiction for any purpose. In support of his argument about the existence of a legislative lacuna, he made reference to the Public Service Law of 1967 (Law No. 33/67) and to the Public Educational Service Law of 1969 (Law 10/69) whereby provision is made empowering such bodies to appoint and dismiss public officers and education-  
5 such bodies to appoint and dismiss public officers and education-  
alists, as well as power to inflict or impose a number of other  
punishments, including the power for interdiction. He con-  
cluded his argument on this point by submitting that in the  
10 absence of provision in a particular law, the Court cannot correct  
the omission by construing the statute in such a way as to include  
a power which is not expressly mentioned in the statute. There-  
fore, in the absence of a legislative provision for interdiction  
and for dismissal, the act and/or decision of the Council of  
15 Ministers was null and void ab initio and of no legal effect, and  
also manifestly illegal and wrong.

His second submission was that even if the Court could find that there was no legislative lacuna, then the only organ which could, if there was legislative provision to interdict the applicant was not the Council of Ministers but the President himself.  
20 Later, however, in the course of his address, counsel conceded, very rightly in my view, that if such power did exist, it was vested in the Council of Ministers. As a result, he abandoned legal grounds 3(b) of the first remedy and 3 of the second remedy  
25 which appear in the grounds of law set out in support of the application.

His third submission was that the act was illegal in that what should have been imposed on the applicant, was not interdiction (thiathesimotis) but 'arghia' as it is known under the principles  
30 of the Greek administrative law. He made reference to the difference existing in the Greek administrative law between 'thiathesimotis' and 'arghia', in that 'thiathesimotis' can only be used in two cases, that is cases of illness or abolition of post, whetheas 'arghia' can be used, amongst others, in cases where a  
35 criminal prosecution or a disciplinary process is pending against a public servant. The decision in the present case to place him in 'thiathesimotita' is wrong as 'thiathesimotis' is not applicable for such purpose but only 'arghia' and, therefore, they used the wrong process.

40 He concluded his argument on the first part of the recourse,



by submitting that an officer cannot be interdicted (interdiction being an intermediate measure), unless there is provision in the same law for power to dismiss the officer, and in the present case there is no power for dismissal or for any other intermediate measure of punishment. Therefore, the Council of Ministers by interdicting the applicant, acted in excess of their authority. 5

Dealing with the second part of his recourse, that is the appointment of Mr. Erotokritos, as Deputy Registrar, he submitted that such appointment was illegal and of no effect. He based his submission on the fact that once the applicant was wrongly and illegally interdicted, then it follows, as a matter of course, that any appointment of another person to act as Deputy Registrar is null and void. He referred to the notification in the Gazette in which the appointment of Mr. Erotokritos is made to last during the interdiction of the applicant. Counsel submitted that if the interdiction of the applicant is illegal, Mr. Erotokritos cannot take the place of somebody who has been wrongly interdicted. 10 15

His second submission on this issue, was that there was no provision in Cap. 114 for the appointment of a Deputy Registrar of Co-operative Societies. The power given under section 3 of Cap. 114 is for the Governor (now the Council of Ministers) to appoint persons to assist any such Registrar which must be construed to mean for so long as the Registrar is there and keeps his substantive post. 20 25

His third submission was that even if the Court reached the conclusion that the appointment was legal, there was failure on the part of the Council of Ministers to confer on such person specific powers. He submitted that the Registrar when appointed has to perform the duties which the Law gives him, and that is done by operation of the law. But when other persons are appointed to assist the Registrar a special order has to be made defining their powers. He can be assigned all the powers of the Registrar or limited powers and the fact that no such order was made defining his powers, makes the decision concerning his appointment null and void and of no effect. 30 35

Counsel for the respondents in answering the arguments advanced by counsel for the applicant submitted that there is no legislative lacuna because resort can be sought to sections

19 and 20 of the Interpretation Law, Cap. 1. He agreed that there is no mention in Cap. 114 as to how and when the services of the Registrar of Co-operative Societies can be terminated or any provisional steps taken against him, such as the interdiction, but such power clearly existed already in sections 19 and 20 of the Interpretation Law. Even if there was no provision at all in the Interpretation Law, it would have been clearly wrong to suggest that the Council of Ministers being the authority who appointed the applicant, had no power to interdict him because such statement would have been contrary to the theory and the authorities of the administrative law and he made reference to the Decisions of the Greek Council of State, in that respect. He concluded his argument on this point by submitting that the case was covered by section 19 of Cap. 1 and that what actually happened in this case is that he was temporarily suspended from his service and that the effect of the word "thiathesimotis" mentioned in the decision of the Council of Ministers is actually "suspension" under the provisions of section 19.

As to the second part of the recourse, counsel for the respondents agreed that if the decision of the Council of Ministers interdicting the applicant was declared null and void, automatically the appointment of Mr. Erotokritos becomes void, in view of the fact that no vacancy was created by the lawful and valid removal of the holder from his post. On the question of the existence of a power of appointment of a Deputy Registrar to act temporarily during the period that the applicant was under interdiction, he submitted that there is ample authority under section 20 of Cap. 1.

Mr. Clerides in replying to the address of counsel for the respondents submitted that no power existed in section 19 to the Council of Ministers, because section 19 refers only to person or a public authority and not to the Governor (now the Council of Ministers) because the Governor was neither a person nor a public authority. He further submitted that for a power of interdiction to exist under the Greek administrative law, there must exist in the legislation a power of dismissal. He conceded that in the absence of express provision for interdiction, the appropriate organ could exercise such power but only when there was power vested to such organ under the law for the dismissal of a public officer, whereas in the present case, there is no statu-

tory provision for dismissal of the Registrar from his post, and, in consequence, no intermediate measure could be taken against him.

A lot was said in this case about the difference between the word 'thiathesimotis' and 'arghia' and that what should have been used in this case was 'arghia' and not 'thiathesimotis'. I find it unnecessary to go into detail into the distinction, meaning and effect under the Greek administrative law of the two processes of 'thiathesimotis' and 'arghia' and I restrict myself to the lucid and comprehensive analysis in this respect, of Triantafylides, P. in his judgment in *Veis and another v. The Republic* (1979) 3 C.L.R. 390 as follows and which I fully adopt p. 405). 5 10

"Counsel for the respondent Committee has not disputed that the measure of interdiction, provided for under section 74, above, corresponds to interdiction in an analogous situation in Greece. So, in this respect, it is useful to refer to Discourses on Administrative Law ("Μαθήματα Διοικητικοῦ Δικαίου") 1957, by Stasinopoulos, where, at pp. 344, 350-353, the matter of interdiction is dealt with fully. As it is to be derived from what is stated there, interdiction, under section 74 of Law 10/69, corresponds, primarily, to what is described by Stasinopoulos as 'δυστητική ἀργία' ('discretionary interdiction'), which has to be distinguished from compulsory interdiction and interdiction due to circumstances for which the public officer concerned cannot be held to be responsible, such as abolition of his post or illness (and see, also, in this respect, *inter alia*, the decisions of the Council of State in Greece in cases 293/1966, 1300/1967 and 804/1970). 15 20 25 30

And at pages 412, 413,

"As has already been stated in this judgment, counsel for the respondent has not disputed that the measure of interdiction, under section 74 of Law 10/69, corresponds to the measure of interdiction in a similar situation in Greece; therefore, it is useful to examine what exactly is the nature of such measure in Greece, even though the corresponding legislative provisions in Cyprus and Greece, respectively, are not similar in all respects. 35

Interdiction is one mode of altering, albeit temporarily, 40

the status of a public officer (see Discourses on Administrative Law, *supra*, by Stasinopoulos, p. 344, Kyriakopoulos on Greek Administrative Law—"Ελληνικὸν Διοικητικὸν Δίκαιον" 4th ed., vol. C, p. 311, and Fthenakis on the Law of Public Officers—"Σύστημα Ὑπαλληλικοῦ Δικαίου"—1st ed., vol. C, p. 114). It is a measure which is resorted to in relation, *inter alia*, to the deprivation of the personal liberty of a public officer by means of a warrant of arrest or a judicial decision, or in case of dismissal of a public officer by virtue of a disciplinary decision, or when there is pending against such an officer either a criminal prosecution or a disciplinary process; and in all such cases it is usually described as 'ἀργία' being contradistinguished from 'διαθεσιμότης' which is used, mainly, to denote interdiction which is applicable in cases of illness or abolition of post (see, *inter alia*, Stasinopoulos, *supra*, pp. 100-120, and the decision of the Council of State in Greece in case 1300/1967).

In Cyprus, for the purposes of section 84 of Law 33/67 and of section 74 of Law 10/69, respectively, interdiction, which corresponds to 'ἀργία' in Greece, is described generally as 'διαθεσιμότης'.

Interdiction when resorted to in relation to a pending disciplinary process, is not a measure of a disciplinary character, but a measure of an administrative nature (see Stasinopoulos, *supra*, at p. 396, and Conclusions from the Case-Law of the Council of State in Greece—"Πορίσματα Νομολογίας τοῦ Συμβουλίου τῆς Ἐπικρατείας"—1929-1959, p. 368, as well as the decisions of the Council of State in Greece in cases 293/1966 and 804/1970); consequently, the principle of non bis in idem is not applicable when, in relation to the same disciplinary offence, there is resorted to the measure of interdiction and there is imposed also, disciplinary punishment (see Conclusions, *supra*, at p. 368); and interdiction is not the only measure of administrative nature which may be resorted in connection with a pending disciplinary process, since another such measure may be a transfer, or, in Greece, 'διαθεσιμότης' as distinguished from 'ἀργία' (see, again, Stasinopoulos, *supra*, at p. 396, and Conclusions, *supra*, at p. 368)."

It is clear from the above that “διοθεσιμότης” under our Law, corresponds to “δυστητική άργία” under the Greek Law. Therefore, the argument of counsel for the applicant that the decision of the Council of Ministers to place the applicant in “διοθεσιμότητα” instead of “άργία” was wrong, fails. 5

I come now to the other questions of law raised by counsel for applicant concerning the first part of his recourse, which may be summarised in his statement that there was no power to dismiss the applicant under the provisions of Cap. 114 and in consequence no power to interdict him, in view of the fact that interdiction is an intermediate measure. It is true that under Cap. 114 section 3, as amended by section 3(1) of Law 28/59, provision is made for the appointment by the Governor of a person to the post of Registrar of Greek Co-operative Development without any express provision for the termination of his appointment or for any intermediate measures to be taken against him. 10 15

Section 3(1) reads as follows:

“The Governor may appoint a person to be Greek Registrar and a person to be Turkish Registrar and may appoint persons to assist any such Registrar, and may, by general or special order published in the Gazette, confer on such persons all or any of the powers of a Registrar under this Law”. 20

Such law, however, should be read in conjunction with the Interpretation Law, Cap. 1, section 19 which reads as follows: 25

“Where any Law confers upon any person or public authority power to make appointments to any office or place the power shall be construed as including the power to determine any such appointment and to suspend any person appointed, and to re-appoint or reinstate him, and to appoint another person temporarily in the place of any person so suspended, and to appoint another person to fill any vacancy in the office or place arising from any other cause: 30 35

Provided that where the power of the person or public authority to make any such appointment is only exercisable upon the recommendation or subject to the approval, consent or concurrence of some other person or authority

the power of determination or suspension shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval, consent or concurrence of that other person or authority”.

5 I find myself unable to agree with counsel for the applicant that section 19 refers only to a person or other public authority excluding the Governor (now the Council of Ministers) from such definition. I find that the Governor being the person vested with the power to appoint a Registrar of Co-operative  
10 Societies falls within the definition of a person under section 19 of Cap. 1, in the absence of any provision to the contrary. I, therefore, find that there was power in the Council of Ministers to place the applicant under “δικαθεσιμότητα” which has been interpreted as interdiction, which, in any event, is within  
15 the spirit and the meaning of the word “suspension” appearing in section 19. Therefore, I conclude that the first part of this recourse fails.

I come now to the second part of the recourse which concerns the appointment of Mr. Erotokritos as Deputy Registrar of  
20 Co-operative Societies. In consequence of my finding that there was power in the Council of Ministers to interdict the applicant the argument that such appointment could not be made once there was no temporary vacancy in the post, fails.

The only question that remains for determination is whether  
25 there was power in the Council of Ministers to appoint somebody to perform the duties of the Registrar. I find that such power exists under the provisions of sections 19 and 20 of the Interpretation Law. Reference has already been made to section 19 whereby power is given “to appoint another person temporarily  
30 in the place of any person so suspended”. Further to the above, section 20 provides as follows:

“Where the Governor is satisfied that the holder of any public office is unable for any cause to perform the functions of that office, it shall be lawful for the Governor either to  
35 appoint another person to that office or to direct that the said functions be performed by a person named by him or by the person for the time being holding or lawfully performing the functions of, some other public office; and all the functions of the first mentioned office shall accordingly

vest (subject to any conditions, exceptions or qualifications which the Governor may prescribe) in such person until his appointment or the direction, as the case may be, is terminated by the Governor”.

Once such person was appointed to act in the post of the Registrar, in the place of the applicant for the period of applicant's interdiction, his powers appear in the Co-operative Societies Amending Law of 1959 (Law 28/1959), section 3(2) and, therefore, it was not necessary for the Council of Ministers to define such powers unless the Council wished to limit such powers. Once no such limitation appears in the decision appointing him, it must be presumed that he is appointed to exercise all powers vested in him under the law.

For the reasons stated, this recourse fails and is hereby dismissed, but taking into consideration all the circumstances of the case, I make no order for costs.

*Application dismissed.  
No order as to costs.*