1982 January 30

[TRIANTAFYLLIDES, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

OMIROS ARISTIDES AND OTHERS,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH THE MINISTRY OF INTERIOR AND OTHERS,

Respondents.

(*Cases Nos.* 166/75, 183/75, 184/75).

Requisition—Turkish Cypriot properties—Orders of requisition of, under section 4 of the Requisition of Property Law, 1962 (*Law* 21/62 *as amended by Law* 50/66)*—Validly made in the very special circumstances of these cases inspite of their generality—Section 5 of the Law—Not a mandatory provision but an enabling one —Sufficiency of the enquiry preceding the requisition orders—Once they were made by the Council of Ministers and the Minister of Interior and Defence, who were duly empowered to make them the management of the properties affected thereby could be entrusted to the "Central Committee for Protection of Abandoned Properties of Turkish Cypriots" though such Committee was not the creature of a statutory provision—It was sufficient that the said Committee was set up by a decision of the Council of Ministers under Article 54 of the Constitution—Reasons for which said orders of requisition were made—Whether within the public benefit purposes enumerated in section* 3(2) *of the Law.*

Council of Ministers—Executive powers—Article 54 *of the Constitution.*

Constitutional Law—Right to property—Article 23 *of the Constitution —Requisition of Turkish Cypriot properties—No violation of the right to property of tenants of these properties because requisition is one of the constitutionally permissible ways of interfering with proprietary rights.*

Constitutional Law—Requisition—Prompt payment of compensation —Article 23.8(d) *of the Constitution—Principles applicable —Article* 23.4(c).

Constitutional Law—Right to enter into contract—Article 26 *of the Constitution—Safeguards only the right to enter into a contract and not the rights under a contract—Majority judgment in* Chimonides *v.* Mangli (1967) 1 *C.L.R.* 125 *followed—In view of the provisions of Article* 33.1 *of the Constitution, sub judice requisition orders of Turkish Cypriot properties do not violate Article* 26, *even if it were, eventually, to be found that the minority view in the* Chimonides *case was the correct one.*

Constitutional Law—Right to carry out any trade or occupation— Article 25 *of the Constitution—Requisition of Turkish Cypriot properties—The right of applicants to carry out their occupation as farmers not infringed because the said Article does not exclude interference with things which may be necessary for the exercise of the rights safeguarded by it.*

Constitutional Law—Discrimination—Articles 6 *and* 28 *of the Constitution—Reasonable distinctions consistent with essential nature of things do not amount to discrimination—Requisition of Turkish Cypriot properties—No contravention of the above Articles.*

Necessity—"Law of necessity"—Requisition of Turkish Cypriot properties—Even if in conflict with any one of the Articles of the Constitution or not in strict compliance with the Requisition of Property Law, 1962 (*Law* 21/62), *their validity is saved by virtue of the "Law of necessity" which coincides with the doctrine of "permissible deviation from legality in the strict sense on the ground of paramount public interest", the Court having taken judicial notice of the exceptional and tragic circumstances for our country in the context of which such orders were made.*

The first five applicants in case 184/75 were Turkish Cypriots who after the Turkish invasion, moved to areas occupied by the Turkish troups. The remaining applicants were Greek Cypriots to whom the aforementioned Turkish Cypriots had leased their properties on various dates in the summer of 1975. The applicant in Cases 166/75 and 183/75 was in possession of Turkish Cypriot properties as a custodian and attorney of its owners.

By means of requisition Orders, made under section 4 of the Requisition of Property Law, 1962 (Law 21/62 as amended by Law 50/66) there were requisitioned all the movable and immovable properties, wherever they were to be found, which belonged to Turkish Cypriots and were not being personally used by them, and which had been abandoned by them when they had moved to areas of Cyprus which were then, and still are, under Turkish military occupation. Hence these recourses.

In the requisition orders it was stated, inter alia, that the public benefit purposes for which they were made were the protection of public order, the better utilization of property in the public benefit and the provision or maintenance of supplies which were essential to life or which promoted the well-being of the people. All such purposes were expressly referred to in section 3(2) of Law 21/62.

As it appeared from the orders the requisition of the properties concerned was deemed imperative for their protection and for their more effective administration including the collection of the crops produced by such properties; and, also, in order to satisfy the needs of displaced population through the achievement of the public benefit purposes mentioned in the orders.

Counsel for the applicants mainly contended:

(a) That the requisition orders were invalid because they were vague and too general, and, therefore, they have not properly been made under section 4 of Law 21/62.

(b) That no notices were given in connection with the requisitions under section 5 of Law 21/62.

(c) That no due inquiry has preceded the making of the requisition orders in question.

(d) That it was not lawfully possible to make a provision in the said orders for the managment of the properties affected by them by the "Central Committee for Protection of Abandoned Properties of Turkish Cypriots" because the said Central Committee was not a body set up under a Law.

(e) That the reasons for which the orders of requisition in question were made are not within the public benefit purposes enumerated in section 3(2) of Law 21/62.

(f) That the said orders violated the right of property which is safeguarded by Article 23 of the Constitution in that they interfered with the proprietary rights of those of the applicants who were allegedly tenants of the properties which have been requisitioned.

(g) That applicants have not been offered promptly compensation, either simultaneously with the making of the orders of requisition or soon afterwards, and that such an offer was a prerequisite of the validity of the orders.

(h) That the requisition orders violated the rights of the applicants under their alleged tenancies, contrary to Article 26 of the Constitution.

(i) That by means of the sub judice requisition orders there has been contravened the right of applicants under Article 25 of the Constitution to use the affected properties for the purposes of their occupations as farmers.

(j) That the effect of the requisition orders complained of was discriminatory against the applicants in a manner contrary to Article 6 of the Constitution.

Held, (1) that the said orders, because of the very special situation which had to be faced, had to be of general application and they could not be more specific at the time when they were made; that their generality and the fact that they do not refer separately to individual properties affected by them, as well as the lack of certain other formal particulars, does not prevent them, in the very special circumstances in which they were made, from being orders validly made under section 4 of Law 21/62 (see, also, *Vasiadou* v. *Republic* (1973) 3 C.L.R. 241 at pp. 250, 251).

(2) That section 5 of Law 21/62 is not a mandatory provision, but an enabling provision making possible a preliminary investigation prior to the making of an order of requisition under section 4 of the same Law; and that the failure, therefore, to publish on these particular two occasions notices under section 5 does not invalidate the administrative processes which led to the making of the complained of requisition orders.

(3) That it is to be derived with certainty from the various relevant documents, which were produced by counsel for the respondents that a sufficient inquiry and study of the matter was made by the Government before it proceeded to resort to the making of the said two orders; that what constitutes a proper inquiry prior to reaching an administrative decision is a matter depending on the circumstances of each case; and that in the circumstances of the present cases the requisition orders have been made after due inquiry.

(4) That what matters, for the legality of the orders concerned, is that they were made by the Council of Ministers and the Minister of Interior and Defence, respectively, who were duly empowered to make them under the relevant legislative provisions and it was not essential, too, that the organ to which the management of the properties was entrusted should have been an organ which was the creature of a statutory provision; that it was sufficient that the said Central Committee was set up by the Council of Ministers by its decision No. 14202 of 18th August 1975 (see No. 51 in the Fourth Supplement to the Official Gazette of 29th August 1975); and, that the said decision of the Council of Ministers setting up the Central Committee, was within the ambit of the very wide executive powers which have been vested in the Council of Ministers by means of Article 54 of the Constitution, and which include the general direction and control of the Government of the Republic and the direction of general policy and extend to all matters other than those specifically exempted from the competence of the Council of Ministers under the said Article 54.

(5) That, even assuming, without so deciding, that such reasons do not fully coincide with all the public benefit purposes which were referred to in the orders, definitely all the reasons for which they were made come within the clearly referred to in the said orders purpose of the better utilization and development of property in the public benefit and, therefore, both such orders were made for at least one of the public benefit purposes expressly enumerated in section 3(2) of Law 21/62.

(6) That as it appears from Article 23, when it is read as a whole, requisition is one of the constitutionally permissible ways of interfering with proprietary rights and this is expressly

provided for by means of paragraph 8 of Article 23; and that, therefore, it cannot be accepted that there exists, in the present instance, a violation of the right safeguarded by such Article.

(7) That since under Article 23.8(d) of the Constitution compensation has to be paid promptly, and not in advance as under Article 23.4(c) of the Constitution, the failure to offer any compensation to the applicants during the length of time which has intervened between the dates when the requisition orders in question were made and the date when judgment was reserved in the present cases, does not amount to such an unreasonable delay (bearing particularly in mind the very exceptional circumstances in which the requisition orders were made) as to be treated as a contravention by the respondents of Article 23.8(d) of the Constitution (see, in this respect, inter alia, *Injeyianni* v. *The Republic* (1968) 3 C.L.R. 482, 487; observations in *HadjiKyriakou* (*No.* 1) v. *Council of Ministers* (1968) 3 C.L.R. at p. 9 repeated).

(8) That Article 26 of the Constitution safeguards only the right to enter into a contract and not the rights under a contract too. (See the judgment of the majority of the Full Bench of the Court in *Chimonides* v. *Manglis* (1967) 1 C.L.R. 125).

Held, further, that even if the minority view in the *Chimonides* case, as regards the interpretation of Article 26, above, is, eventually, found to be the correct one and it could, therefore, be held that rights acquired under a contract are also protected by Article 26 again this Court would not be inclined, in the present case, to find that the requisition orders in question violate the said Article, because the right to contract, which is safeguarded by such Article has, in the light of, inter alia, Article 33.1 of the Constitution, to be construed as being subject to limitations or restrictions by means of the effect of an order of requisition envisaged by paragraph 8 of Article 23 of the Constitution.

(9) That no right of the applicants under Article 25 is directly infringed and the said Article does not exclude interference with things which may be necessary for the exercise of the rights safeguarded by it.

(10) That the safeguard against discrimination, which is contained in Article 6, is an aspect of the protection against

discrimination or unequal treatment which is afforded, also, by Article 28 of the Constitution; that it is well established that reasonable distinctions which are consistent with the essential nature of things do not amount to discrimination and, therefore, different persons or things may be treated differently in essentially different circumstances which justify such a course.

Held, further, that had this Court found that the requisition orders in question were in conflict with any one of the Articles of the Constitution which were relied on by the applicants, or that they were not made in strict compliance with any one of the provisions of Law 21/62, it would not have any hesitation, having taken judicial notice of the exceptional and tragic circumstances for our country in the context of which such orders were made, to find that their validity is saved by virtue of the "law of necessity", as expounded in *The Attorney-General* v. *Ibrahim*, 1964 C.L.R. 195, which coincides with the doctrine of "permissible deviation from legality in the strict sense on the ground of paramount public interest", as such doctrine is explained in Tahos on Modern Trends of the Principle of Legality in Administrative Law.

Applications dismissed.

Cases referred to:

Vasiadou v. *Republic* (1973) 3 C.L.R. 241 at pp. 250, 251;

Nicolaou v. *Minister of Interior* (1974) 3 C.L.R. 189 at p. 192;

HadjiKyriacou (No. 1) v. *Council of Ministers* (1968) 3 C.L.R. 1 at p. 9;

Injeyianni v. *Republic* (1968) 3 C.L.R. 482 at p. 487;

Georghiou v. *Municipality of Nicosia* (1973) 3 C.L.R. 53 at p. 57;

Frangou v. *Greek Communal Chamber* (1966) 3 C.L.R. 201 at pp. 209, 210;

Chimonides v. *Manglis* (1967) 1 C.L.R. 125;

Psaras v. *Republic* (1968) 3 C.L.R. 353 at p. 364;

Saba, Kypris & Co. v. *Republic* (1980) 3 C.L.R. 149 at p. 160;

Aloupas v. *National Bank of Greece* (1983) 1 C.L.R. 55;

Impalex Agencies v. *Republic* (1970) 3 C.L.R. 361 at pp. 372, 373;

Kontos v. *Republic* (1974) 3 C.L.R. 112 at pp. 123, 124;

Voyias v. *Republic* (1974) 3 C.L.R. 390 at p. 413;

Papadopoullos v. *Republic* (1965) 3 C.L.R. 401 at pp. 413, 414;

Constantinou v. *Republic* (1966) 3 C.L.R. 572 at pp. 581, 582;

Papaleontiou v. *Republic* (1967) 3 C.L.R. 1 at p. 6;

Skyfrost Co. Ltd. v. *Republic* (1979) 3 C.L.R. 1 at pp. 7, 8;

Attorney-General of the Republic v. *Ibrahim*, 1964 C.L.R. 195;

Lepouse (1958) *Recueil des Decisions du Conseil d' Etat* p. 596; and Revue du Droit Publique et de la Science Politique (1959) pp. 306–314;

Mornet (1971) Recueil des Decisions du Conseil d' Etat p. 289; and Revue du Droit Publique et de la Science Politique (1972) p. 256;

Siret v. *Constantinou* (1981) 1 J.S.C. 11.

Recourses.

Recourses against an order of compulsory acquisition affecting applicants' properties.

N. Pelides, for applicants in Cases Nos. 166/75 and 183/75.

E. Lemonaris with *C. HadjiPieras*, for applicants in Case No. 184/75.

Cur. adv. vult.

TRIANTAFYLLIDES P. read the following judgment. These three cases were heard together on common legal issues regarding the validity of two orders by means of which there were requisitioned movable and immovable properties belonging to Turkish Cypriots.

Both the said orders were made under section 4 of the Requisition of Property Law, 1962 (Law 21/62), as amended by the Requisition of Property (Amendment) Law, 1966 (Law 50/66).

Law 21/62 is the general Law in respect of requisitioning which is envisaged by paragraph 8 of Article 23 of the Constitution.

As it appears from the material before me, the applicant in

cases 166/75 and 183/75 alleges that at the time when the aforesaid requisition orders were made he was in possession of immovable properties belonging to the deceased Hussein Zihni Ibrahim and his family, who were living at Peristerona village, and who, after the Turkish invasion of Cyprus in the summer of 1974, moved to areas which had been occupied by the Turkish troops. This applicant alleges, also, that he was, initially, the lessee of such properties under a contract of tenancy which had expired and which was not renewed due to the intervening, in the meantime, death of the said Ibrahim, and that he remained in possession of the properties as a custodian and attorney authorized for this purpose by the heirs of Ibrahim.

The first five applicants in case 184/75 are Turkish Cypriots —(four of whom were residing at Ayios Sozomenos and the other at Peristerona)—who, after the Turkish invasion, moved to areas occupied by the Turkish troops. The remaining applicants are Greek Cypriots to whom the aforementioned Turkish Cypriots had leased their properties on various dates in the summer of 1975.

The first of the aforementioned two requisition orders was made by the Council of Ministers on 11th September 1975 (see No. 671 in the Third Supplement, Part II, to the Official Gazette of the said date); and this order will be referred to hereinafter as order 671/75.

The second requisition order, which was, obviously, intended to supplement and extend that which was made on 11th September 1975 as aforesaid, was made on 13th November 1975 by the Minister of Interior and Defence in the exercise of powers delegated to him by the Council of Ministers (see No. 820, Third Supplement, Part II to the Official Gazette of 14th November 1975); and this order will be referred to hereinafter as order 820/75.

By virtue of order 671/75 there were requisitioned all the movable properties, wherever they were to be found, which belonged to Turkish Cypriots and which had been abandoned by them when they had moved to areas of Cyprus which were then, and still are, under Turkish military occupation.

By means of order 820/75 there were requisitioned all movable and immovable properties wherever they were to be found which belonged to Turkish Cypriots and were not being personally used by them.

Order 671/75 was made pursuant to decision No. 14273 which was taken by the Council of Ministers on 11th September 1975 and order 820/75 was made by the Minister of Interior and Defence pursuant to decision No. 14423 of the Council of Ministers on 13th November 1975.

In the first of the above orders it is stated that the public benefit purposes for which it was made were the protection of public order, the better utilization of property in the public benefit and the provision or maintenance of supplies which are essential to life or which promote the well-being of the people. All the above purposes are expressly referred to in section 3(2) of Law 21/62.

In the second order it is stated that the public benefit purposes for which it was made were the provision or maintenance or development of supplies and services which are essential to life or which promote the well-being or amenities of the people and the better utilization in the public benefit of properties; again, all these purposes are expressly referred to in section 3(2) of Law 21/62.

As it appears from the contents of the first order, that is order 671/75, the requisition of the properties concerned was deemed imperative for their protection and for their more effective administration including the collection of the crops produced by such properties; and in order 820/75, which, as already stated in this judgment, is to be regarded as supplementary to order 671/75, it is stated that the requisition was imperative in order to satisfy the needs of displaced population through the achievement of the public benefit purposes mentioned in the order.

In this judgment I shall deal with the main arguments which were advanced against the validity of the two requisition orders in question; and if I do not refer expressly to any particular

argument which has been put forward in this respect this is not because I have disregarded it, but because, having considered it, I found that it was obviously not well-founded and, therefore, it was not necessary to deal specifically with it.

It has been submitted by counsel for the applicants that the requisition orders are invalid because they are vague and too general, and, therefore, that they have not properly been made under section 4 of Law 21/62.

In my view, the said orders, because of the very special situation which had to be faced, had to be of general application and they could not be more specific at the time when they were made. Their generality and the fact that they do not refer separately to individual properties affected by them, as well as the lack of certain other formal particulars, does not prevent them, in the very special circumstances in which they were made, from being orders validly made under section 4 of Law 21/62.

As was said by A. Loizou J. in *Vasiadou* v. *The Republic*, (1973) 3 C.L.R. 241 (at pp. 250, 251) "Whether the reasons given" in respect of an order of requisition "are clear enough to satisfy the aforesaid constitutional and statutory requirements, as well as those of the general principles of Administrative Law, is a matter depending on the nature of the reasons and the circumstances under which the order is made . . It is the very nature of the purposes of public benefit for which the property is required that it did not make it essential to give more detailed reasons in support thereof. The order of requisition, as published, served its purpose of giving sufficient notice to a person whose rights are adversely affected thereby for the purpose of exercising his rights under the law and under Article 146 of the Constitution".

Another contention of counsel for the applicants is that no notices were given in connection with the requisitions under section 5 of Law 21/62. In my opinion, the said section 5 is not a mandatory provision, but an enabling provision making possible a preliminary investigation prior to the making of an order of requisition under section 4 of the same Law, and the failure,

therefore, to publish on these particular two occasions notices under section 5 does not in my view invalidate the administrative processes which led to the making of the complained of requisition orders.

It has, also, been contended by counsel for the applicants that no due inquiry has preceded the making of the requisition orders in question. In my view it is to be derived with certainty from the various relevant documents, which were produced by counsel for the respondents and to which I need not refer in detail, that a sufficient inquiry and study of the matter was made by the Government before it proceeded to resort to the making of the said two orders. As was pointed out by A. Loizou J. in *Nicolaou* v. *The Minister of Interior*, (1974) 3 C.L.R. 189, 192, what constitutes a proper inquiry prior to reaching an administrative decision is a matter depending on the circumstances of each case; and I am quite satisfied that in the circumstances of the present cases the requisition orders have been made after due inquiry.

In both the said orders it is stated that what is described as the "Central Committee for Protection of Abandoned Properties of Turkish Cypriots" is empowered to do all things necessary for the management of the properties affected by the orders; and it has been argued by counsel for the applicants that it was not lawfully possible to make such provision because the said Central Committee is not a body set up under a Law. In my opinion, what matters, for the legality of the orders concerned, is that they were made by the Council of Ministers and the Minister of Interior and Defence, respectively, who were duly empowered to make them under the relevant legislative provisions and it was not essential, too, that the organ to which the management of the properties was entrusted should have been an organ which was the creature of a statutory provision. It is sufficient that the said Central Committee was set up by the Council of Ministers by its decision No. 14202 of 18th August 1975 (see No. 51 in the Fourth Supplement to the Official Gazette of 29th August 1975); and, in my opinion, the said decision of the Council of Ministers, setting up the Central Committee, was within the ambit of the very wide executive

powers which have been vested in the Council of Ministers by means of Article 54 of the Constitution, and which include the general direction and control of the Government of the Republic and the direction of general policy and extend to all matters other than those specifically exempted from the competence of the Council of Ministers under the said Article 54.

It has been, furthermore, propounded by counsel for the applicants that the reasons for which the orders of requisition in question were made are not within the public benefit purposes enumerated in section 3(2) of Law 21/62. I am quite satisfied that, even assuming, without so deciding, that such reasons do not fully coincide with all the public benefit purposes which are referred to in the orders, definitely all the reasons for which they were made come within the clearly referred to in the said orders purpose of the better utilization and development of property in the public benefit and, therefore, both such orders were made for at least one of the public benefit purposes expressly enumerated in section 3(2) of Law 21/62.

I shall deal next with the issues relating to the alleged unconstitutionality of the sub judice requisition orders:

It has been submitted that they violate the right of property which is safeguarded by Article 23 of the Constitution in that they interfere with the proprietary rights of those of the applicants who are allegedly tenants of the properties which have been requisitioned.

As it appears from Article 23, when it is read as a whole, requisition is one of the constitutionally permissible ways of interfering with proprietary rights and this is expressly provided for by means of paragraph 8 of Article 23. So, I cannot accept that there exists, in the present instance, a violation of the right safeguarded by such Article. Of course, as fairly conceded by counsel for the respondents, there might arise, to the extent that any legitimate proprietary rights of the applicants may have been actually interfered with, the question of payment to them of just and equitable compensation under sub-paragraph (d) of paragraph 8, above.

In this connection it has been complained of, on behalf of the applicants, that they have not been offered promptly compensation, either simultaneously with the making of the orders of requisition or soon afterwards, and that such an offer is a prerequisite of the validity of the orders.

I do not want to minimize at all the importance of the directive in Article 23.8(d) that compensation should be paid promptly; and, actually, in order to ensure this, provisions such as sections 10 and 11 of Law 21/62 have been enacted. It is, therefore, appropriate to repeat the following observation which has been made, in this connection, in *HadjiKyriakou (No. 1) v. The Council of Ministers*, (1968) 3 C.L.R. 1 (at p. 9):

> "My understanding of the obligation for prompt payment of compensation is that when the exceptional measure of requisition is resorted to the authority concerned should be then in a position to make an offer, at once, to the person affected, and if such offer is not accepted then a reference to Court should be made without delay. Procrastination in the matter on the part of the person affected is no excuse for the authority concerned; the duty to pay compensation is cast upon such authority and it has to be discharged by it promptly".

On the other hand, I would like to observe, in any event, that since under Article 23.8(d) of the Constitution compensation has to be paid promptly, and not in advance as under Article 23.4(c) of the Constitution, the failure to offer any compensation to the applicants, during the length of time which has intervened between the dates when the requisition orders in question were made and the date when judgment was reserved in the present cases, does not amount to such an unreasonable delay (bearing particularly in mind the very exceptional circumstances in which the requisition orders were made) as to be treated as a contravention by the respondents of Article 23.8(d) of the Constitution (see, in this respect, inter alia, *Injeyianni v. The Republic*, (1968) 3 C.L.R. 482, 487). Furthermore, there should be pointed out that it was always open to the applicants,

who claimed that they were entitled to be compensated because of the requisition orders concerned, to apply themselves, under section 11 of Law 21/62, for the assessment of such compensation (see, also, inter alia, in this respect, *Georghiou* v. *The Municipality of Nicosia*, (1973) 3 C.L.R. 53, 57).

It has been contended, also, by the applicants that the requisition orders violate their rights under their alleged tenancies, contrary to Article 26 of the Constitution:

In *Frangou* v. *The Greek Communal Chamber*, (1966) 3 C.L.R. 201, 209, I had expressed the view that Article 26 of the Constitution safeguards only the right to enter into a contract and not the rights under a contract too. This view seems to have been adopted by the majority of the Full Bench of the Court in *Chimonides* v. *Manglis*, (1967) 1 C.L.R. 125, and was subsequently followed and applied in, inter alia, *Psaras* v. *The Republic*, (1968) 3 C.L.R. 353, 364, and in *Saba, Kypris & Co.* v. *The Republic*, (1980) 3 C.L.R. 149, 160.

At the time when this judgment is being prepared I am well aware that the aforesaid majority view in the *Chimonides* case, supra, is challenged as erroneous in the cases of *Aloupas* v. *The National Bank of Greece* (Case Stated 182) and *Ambrosia Oils and Margarine Industry* v. *Bank of Cyprus Ltd.* (Case Stated 183*, which are being heard by the Full Bench of this Court, but as I am delivering this judgment in the exercise of the first instance jurisdiction of this Court I consider myself, on the strength of the principle of judicial precedent, bound by the majority view in the *Chimonides* case and I have to adhere to it.

Even if, however, the minority view in the *Chimonides* case, as regards the interpretation of Article 26, above, is, eventually, found to be the correct one and it could, therefore, be held that rights acquired under a contract are also protected by Article 26, again I would not be inclined, in the present case, to find that the requisition orders in question violate the said Article,

* Reported in (1983) 1 C.L.R. 55.

because the right to contract, which is safeguarded by such Article has, in the light of, inter alia, Article 33.1 of the Constitution, to be construed as being subject to limitations or restrictions by means of the effect of an order of requisition envisaged by paragraph 8 of Article 23 of the Constitution.

It has been, also, contended by counsel for the applicants that by means of the sub judice requisition orders there has been contravened their right under Article 25 of the Constitution to use the affected properties for the purposes of their occupations as farmers. I cannot accept as correct this contention as by means of the requisition orders no right of the applicants under Article 25 is directly infringed and the said Article does not exclude interference with things which may be necessary for the exercise of the rights safeguarded by it (see, in this respect inter alia, *Impalex Agencies Ltd.* v. *The Republic*, (1970) 3 C.L.R. 361, 372, 373, *Kontos* v. *The Republic*, (1974) 3 C.L.R. 112, 123, 124 and *Voyias* v. *The Republic*, (1974) 3 C.L.R. 390, 413).

It has, further, been argued by counsel for the applicants that the effect of the requisition orders complained of is discriminatory against the applicants in a manner contrary to Article 6 of the Constitution. The safeguard against discrimination, which is contained in Article 6, is an aspect of the protection against discrimination or unequal treatment which is afforded, also, by Article 28 of the Constitution; and it is well established that reasonable distinctions which are consistent with the essential nature of things do not amount to discrimination and, therefore, different persons or things may be treated differently in essentially different circumstances which justify such a course (see, in this respect, inter alia, *Papadopoullos* v. *The Republic*, (1965) 3 C.L.R. 401, 413, 414, *Frangou* v. *The Greek Communal Chamber*, (1966) 3 C.L.R. 201, 209, 210, *Constantinou* v. *The Republic*, (1966) 3 C.L.R. 572, 581, 582, *Papaleontiou* v. *The Republic*, (1967) 3 C.L.R. 1, 6, *Skyfrost Co. Ltd.* v. *The Republic*, (1979) 3 C.L.R. 1, 7, 8).

Anyhow, I should state, too, that had I found that the requisition orders in question were in conflict with any one of the

Articles of the Constitution which were relied on by the applicants, or that they were not made in strict compliance with any one of the provisions of Law 21/62, I would not have any hesitation, having taken judicial notice of the exceptional and tragic circumstances for our country in the context of which such orders were made, to find that their validity is saved by virtue of the "law of necessity", as expounded in *The Attorney-General* v. *Ibrahim*, 1964 C.L.R. 195, which coincides with the doctrine of "permissible deviation from legality in the strict sense on the ground of paramount public interest", as such doctrine is explained in Tahos on Modern Trends of the Principle of Legality in Administrative Law (Τάχου "Σύγχρονοι Τάσεις τῆς Ἀρχῆς τῆς Νομιμότητος εἰς τὸ Διοικητικὸν Δίκαιον") —(1973), pp. 144-146, and, in particular, at pp. 146, 147, and at pp. 150-152; and, useful reference may, also, be made to the decisions, which are referred to by Tahos, of the Council of State in France in the cases of *Lepouse*, (1958) Recueil des Decisions du Conseil d'Etat, p. 596, and Revue du Droit Publique et de la Science Politique (1959) pp. 306-314, and of *Mornet*, (1971) Recueil des Decisions du Conseil d'Etat, p. 289, and Revue du Droit Publique et de la Science Politique (1972) p. 256.

Before concluding, I should observe that I have proceeded to give this judgment on the assumption, which I think that it is justified by the material at present before me, that the aforesaid requisition orders do apply to the properties of the applicants; and, also, that the circumstances of these cases render them distinguishable from that of *Siret* v. *Constantinou*, which was decided by my brother Judge Pikis J. when he was President of the District Court of Larnaca ((1981) 1 J.S.C.11).

I might add that had the orders not applied to the properties of the applicants then they would not be affected by them and they would not have a legitimate interest in the sense of Article 146.2 entitling them to file the present recourses.

In the light of all the foregoing I have reached the conclusion that the sub judice requisition orders are not invalid and, consequently, these recourses have to be dismissed, unless counsel for any of the applicants applies that any one of these recourses

should be fixed for further hearing in relation to any specific issue arising therein which has not yet been argued and determined.

In view of the novelty of the matters raised there will be no order as to the costs of these cases.

Recourses dismissed with no order as to costs.