1983 October 14

[PIKIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

HEBE NISSIOTOU,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH THE MINISTER OF EDUCATION,

Respondents.

(*Case No.* 311/83).

Educational Officers—Headmasters—Secondary Education—Transfers—Postings—Request for posting to another school in the light of the expected introduction of the division of schools into Gymnasiums and Lyceums—Whether it could be treated as an application for transfer—Regulations 14(1) *and* 15 *of the Educational Service Regulations,* 1972*—Time-limit for making applications for transfer—Is set only for transfers from one geographic area to another and not for transfers from one school to another within the same town—Regulations* 17(2) *and* 18(*a*) *of the above Regulations—Section* 39(2) *of the Public Educational Service Law,* 1969 (*Law* 10/69).

Administrative Law—Administrative acts or decisions—Executory act—Educational officers—Secondary Education School Masters—Transfers—Postings from one school to another within the same town—Have a direct impact upon the position of educationalists—They do not constitute an internal administrative measure but an executory administrative act which is amenable to judicial review.

Educational Officers—Secondary Education Headmasters—Transfers—Appropriate Authority (the Minister) doing nothing more than approving the decision of his subordinate the Director of Education—Thus failing to assume and exercise the powers entrusted to him by law as the appropriate authority—And acting

in abuse of power by relinquishing the discharge of a legal duty and surrendering effective authority to another organ—Moreover the Minister has not carried out an adequate inquiry in that he did not inquire into the wishes of headmasters for transfer, in contravention of regulation 14(1) of the Educational Service Regulations, 1972—Also sub judice decision not duly reasoned because it refers solely to the principle underlying it and not to the reasons therefor—Annulled.

Administrative Law—Abuse of power—Statutory competence—Failure of appropriate authority to assume it and entrusting it to another organ—Appropriate authority acting in abuse of power.

Administrative Law—Inquiry—Absence of due or adequate inquiry—Transfers of Secondary Education Headmasters—Minister failing to inquire into the wishes of Headmasters for transfers—Sub judice decision annulled for absence of adequate inquiry—Regulation 14(1) of the Educational Service Regulations, 1972.

Administrative Law—Administrative acts or decisions—Reasoning—Requirement for due reasoning—How satisfied—Transfers of Secondary Education Headmasters—Relevant decision referring only to the principle underlying it and not to the reasons therefor—Annulled for lack of due reasoning.

The educational authorities decided to introduce during the current academic year a division of secondary schools into two self-composed branches, each involving a three-year cycle of education, the Gymnasium and Lyceum which henceforth would function and be accommodated separately. In anticipation of the transfers expected to become necessary by the introduction of the division the applicant, the headmistress of the A' Gymnasium of Phaneromeni, applied by letter dated 8.6.1983, to be transferred to a school classified as a Lyceum, namely Makarios C' Gymnasium at Nicosia. In support of her application for transfer she gave as a reason the elevated status of the school to which she applied to be transferred earmarked as a Lyceum, in contrast to the school where she served, designated as a Gymnasium; and also personal and family convenience served by the proximity of Makarios C' Gymnasium, to the place of work of her husband. No reply was ever given to the letter of the applicant nor reasons were

given to her at any time for not meeting her request. On 16.7. 1983 11 transfers of headmasters, posted at Nicosia – Secondary schools were decided by the Minister of Education, in the context of the new classification of secondary schools. These transfers entailed movement of headmasters to different schools at Nicosia. As the applicant was not among those transferred by her recourse filed on 21.7.1983, she challenged the validity of the tranfers and questioned the omission of the Minister of Education to consider and satisfy her application for transfer.

On the questions:

(a) Whether in view of regulation 15 of the Educational Service Regulations, 1972 the request of applicant did not constitute or amount to an application for transfer because she asked to be posted.

(b) Whether regulations 17(2) and 18(a) relieved the administration of any duty to consider the application as it was made out of time.

(c) Whether the decision of the Minister of Education of 16.7.1983 was an executory act.

(d) Whether the decision of 16.7.1983 emanated from the Authority entrusted by law for effecting transfers within the same geographic area, namely the "appropriate authority", in this case the Minister of Education.

(e) Whether the sub judice decision was a valid one, bearing in mind the inquiry made and the reasons given in support of it.

With regard to (d) above all the Minister did in this case was to signify approval of the recommendation of the Director of Secondary Education for transfers channelled to the Minister by writing the word "approved" on the recommendations.

Held,(1) that unless some rule or regulation absolved the administration of the duty to consider applicant's letter in the context of the contemplated transfers pertinent to the classification of schools, they were dutybound to take it properly into account, as required by regulation 14(1) of the Educational Service Regulations, 1972, and in exercising the discretionary powers vested in them under section 39(2) of the Public Educational Service

Law, 1969 (Law 10/69) notwithstanding that she used the word "posted".

(2) That on a proper interpretation of regulations 17(2) and 18(a) a time-limit is set for making applications for transfer, only with regard to transfers from one geographic area to another and these regulations do not envisage a time-limit for submitting applications for transfer from one school to another within the same town.

(3) That the Public Educational Service Law and Regulations made thereunder, lay down the same criteria for the transfer of educationalists, whether they concern movement from one school to another within the same town or, from one geographic location to another; that the test in both cases are educational needs and the wishes of individual educationalists—see regulation 14(1); that unlike the transfer of public officers governed by the Public Service Law, 1967 (Law 33/67) specific criteria are laid down establishing a firm legal basis governing transfers; that this is regarded as a legislative acknowledgment that transfers of educationalists, be it within the same town, have a direct impact upon the position of educationalists and, as such, should be amenable to review; that, moreover, their implications on the effectiveness of the educational system is another ponderous reason for taking the decision under consideration outside the compass of internal administrative measures; that reflection on the implications of the new classification of schools upon the position of headmasters, leaves no doubt that posting to a school on the lower or upper strata of secondary education, has direct foreseeable repercussions upon their career and standing in the service; and that, therefore, the sub judice decision is justiciable (*Yiallourou* v. *Republic* (1976) 3 C.L.R. 220 and *Karapataki* v. *Republic* (1982) 3 C.L.R. 88 distinguished).

(4) That even if the apparent implications, arising from the manner in which the decision in question was taken, were to be overlooked, there is nothing to suggest, on a consideration of the records placed before the Court, that the Minister applied himself, other than merely approve, to the matter in hand in order to decide himself how educational needs would best be served, including consideration of individual preferences of educationalists; that, on the contrary, there is everything to

suggest that the Minister of Education did no more than approve the decision of a subordinate, failing, in the end, to assume and exercise the powers entrusted to him by law as the appropriate authority; that it is an abuse of power to relinquish the discharge of a legal duty and surrender effective authority to another organ. And as such it is liable to be set aside.

Held, further, that one is inexorably driven to the conclusion that the transfers were made without inquiring into the wishes of headmasters for transfer, in contravention of the provisions of regulation 14(1); that at the least the inquiry was inadequate to that extent.

(5) That the reasoning of the sub judice decision is brief and does not purport to justify the decision; that all it does is to assert its necessity in satisfaction of educational needs; that the reasoning of an administrative decision must be explicit to the extent of enabling the parties affected by the decision to advise themselves as to their rights on the one hand and administrative Courts exercise proper control over administrative action on the other; that vague generalities are no substitute for a reasoned decision; that nor repetition, as such of the statutory criteria absolves the administration of the duty to reason how they apply in the circumstances of a particular case; that the facts of the case must be explicitly evaluated; that administrative bodies must not limit their reasoning to listing the guide-lines upon which they relied for their decision; that the sub judice decision refers solely to the principle underlying it, not the reasons for the decision; that it does not, for example, reason why headmasters with lesser experience than the applicant were placed in charge of Lyceums, schools of exalted status under the new scheme, in preference to the applicant—a headmistress with a long and successful career, as evidenced by a series of documents produced before the Court; accordingly the sub judice decision will be annulled so far as it concerns the applicant and the interested parties.

Sub judice decision annulled.

Per curiam: Important changes, reflecting changes in policy, should not be introduced by administrative measures, but should be undertaken within the framework of legislation. It is, in the first place, desirable that

important changes in education, affecting our educational system and the quality of education in general, should have explicit approval from the legislature. Also, legislation provides for certainty and a more definite guide to the rights of parties affected thereby. Such legislation should lay down the criteria that should govern assignment of educationalists to the first and second level of secondary education.

Cases referred to:

Yiallourou v. *Republic* (1976) 3 C.L.R. 220;

Karapataki v. *Republic* (1982) 3 C.L.R. 88;

Sofocleous (No. 1) v. *Republic* (1972) 3 C.L.R. 56;

Sofocleous v. *Republic* (1974) 3 C.L.R. 63;

Re Cushla Ltd. [1979] 3 All E.R. 415;

Frangos and Another v. *Republic* (1982) 3 C.L.R. 53;

Tooulias v. *Republic* (1983) 3 C.L.R. 465;

Papakyriacou v. *Republic* (1983) 3 C.L.R. 870;

Papadopoullos v. *Republic* (1982) 3 C.L.R. 1070 at p. 1079.

Recourse.

Recourse against the refusal of the respondent to transfer applicant from Phaneromeni Gymnasium 'A' to Makarios 'C' Gymnasium.

A. S. Angelides, for the applicant.

R. Vrahimi (Mrs.), for the respondent.

Ph. Valiantis, for interested party *C. Karayiannis.*

Cur. adv. vult.

PIKIS J. read the following judgment. Important changes in the structure of secondary education were under consideration last year, programmed to be introduced during the current academic year. They involved the division of secondary schools into two self-composed branches, each involving a three-year cycle of education - the Gymnasium and Lyceum. Hitherto the first and second cycle of secondary education coexisted and were accommodated in the same school. Henceforth, the Gymnasiums would function and be accommodated separately from schools earmarked to function as Lyceums. The expected changes became known to educationalists and

seemingly were, for obvious reasons, of especial concern to headmasters.

In anticipation of the transfers expected to become necessary by the introduction of the aforementioned schematic changes in secondary education, Mrs. Nissiotou, the headmistress of the A' Gymnasium of Phaneromeni, applied to be transferred to a school classified as a Lyceum, namely, Makarios C' Gymnasium at Nicosia. In support of her application for transfer, as may be gathered from the content of her letter, she gave two reasons: Firstly, the elevated status of the school to which she applied to be transferred earmarked as a Lyceum, in contrast to the school where she served, designated as a Gymnasium. Her long and successful experience entitled her, as stated in her letter, to the assignment of duties to a school in the upper layer of secondary education. Secondly, personal and family convenience served by the proximity of Makarios C' Gymnasium, to the place of work of her husband.

The letter setting forth her request for transfer, was addressed to the Director of Secondary Education on 8.6.1983; it was received on 10.6.1983 and drawn to the attention of the Director on the same day, as his initials on the letter signify (see, *Appendix* A' to the opposition).

On 16.7.1983 a number of transfers of headmasters were decided by the Minister of Education, including no less than the transfer of eleven headmasters posted at Nicosia secondary schools. The transfers were made in the context of the new classification of secondary schools noticed above, and entailed movement of headmasters to different schools at Nicosia. The applicant was not among those transferred. By her recourse filed on 21.7.1983, she challenged the validity of the transfers and questioned the omission of the Minister of Education to consider and satisfy her application for transfer. It is undisputed that no reply was ever given to the letter of the applicant. Nor were reasons given to her at any time for not meeting her request.

The recourse was opposed primarily on procedural grounds. According to the opposition, the foremost reason for not considering the request of the applicant, or satisfying it, or give any reply thereto, was the nature of her request, an

application to be posted, not to be transferred to another school. Inasmuch as there is no power under the law to post secondary school educationalists, except upon appointment on probation or on contract, as provided in reg. 15 of the Educational Service Regulations 1972, applicant's letter merited no consideration for, it embodied a request unwarranted in law. Therefore, her letter was rightly ignored. Even if this contention was well founded, there was no excuse for not replying to the applicant as administrative authorities are bound to, under Article 29 of the Constitution. A citizen addressing the administration has a right to a timeous reply, within thirty days, from his application. An omission to reply is reviewable under Article 29, unless it merges in an act or omission encompassing the substance of his request.

In the alternative, assuming the letter amounted to an application for transfer, it is contended, it could likewise be disregarded for it was made out of time.

The contentious issues, as they emerged after the filing of the opposition, were—

(a) The nature of the request of the applicant, particularly whether it amounted to an application for transfer and,

(b) The timeliness of the request if it amounted to an application for transfer.

At the hearing the respondents, without abandoning the grounds adumbrated in the opposition, they placed little reliance upon them, whereas they laid stress on other unpleaded grounds in support of the submission that the application ought to be dismissed. Their main contention, at the trial, was that the transfers effected on 16.7.1983 were an internum of the administration and, as such, non-justiciable. If it were not for the fact that the justiciability of a recourse, judged from the angle of the nature of the act, is always a matter necessarily in issue, I would disregard the submissions made in view of Ord. 14 r.2 and Ord. 18 of the Supreme Constitutional Court Rules made applicable to recourses before the Supreme Court under Article 146. Although the jurisdiction under Article 146 is pre-eminently of an inquisitorial nature, the parties are not relieved of the duty of pleading the issues in dispute and setting forth the material facts supporting their case. Pleading

the issues succinctly, is a necessary safeguard for the proper administration of justice. It serves to forewarn the parties of the case of their opponents, whereas the issues in dispute are elucidated in the interests of order and certainty in the process of litigation.

Now, the contention that the letter of 8.6.1983 did not constitute or amount to an application for transfer is, with respect to counsel, based on a short-sighted view of its contents and the attribution to the writer of an intention to use ordinary words in daily parlance, such as "posted" (τοποθέτηση), as terms of art, that is, in the distinct sense used by the Regulations, notably reg. 15. This is a wholly unwarranted construction of the letter of applicant that simply and clearly put forward a request for transfer. And as such, it ought to be faced by the Minister of Education and his subordinates. Unless some rule or regulation absolved the administration of the duty to consider this letter in the context of the contemplated transfers pertinent to the reclassification of schools, they were dutybound to take it properly into account, as required by reg. 14(1). Mrs. Vrahimi submitted that regulations 17(2) and 18(a) relieved the administration of any duty to consider her application, as it was made out of time. On a proper interpretation of the aforesaid Regulations, a time-limit is set for making applications for transfer, only with regard to transfers from one geographic area to another. And the printed form approved for making such applications, expressly lays down that its use is restricted to applications for transfers from a town or village to another (exhibit 3). So, contrary to the pleaded case of the respondents, the Regulations do not envisage a time-limit for submitting applications for transfer from one school to another within the same town.

Counsel for the respondents raised a supplementary ground involving factual issues not raised in the opposition, deriving from a letter of the Ministry dated 24.2.1983, addressed to headmasters of secondary schools, requesting that applications for transfer by secondary school teachers should be submitted the latest by 16.4.1983. To begin with, this factual issue must be disregarded as an unpleaded factual issue; not that its consideration would make any difference to the outcome of the recourse. It is doubtful whether it was at all addressed to headmasters

and not solely directed to teachers. At best, it was an administrative directive that did not close the door to consideration of applications made subsequent to the date named in the letter, provided there was proper opportunity for their consideration. Undoubtedly there was ample time to consider the request of the applicant for transfer considering the time at which the letter was received and the date on which transfers were made. There was no justification in law for disregarding or ignoring the request of the applicant. On the contrary, the Minister of Education, as the appropriate authority, was dutybound, in the light of the provisions of reg. 14(1) to take the request into account in exercising the discretionary powers vested in him by s. 39(2) of the Public Educational Service Law—10/69.

The remaining issues that properly arise and merit consideration, are, in my view, the following:-

1. *Was the decision of the Minister of Education of* 16.7.1983 *an executory act*?

   If the answer is in the affirmative, the next question is,

2. *Did the decision of* 16.7.1983 *emanate from the authority entrusted by law, for effecting transfers within the same geographic area, namely the "appropriate authority", in this case the Minister of Education*?

   All the Minister did in this case was to signify approval of the recommendation of the Director of Secondary Education for transfers channelled to the Minister with the approval of the Director-General of the Ministry. It has been submitted that the Minister did no more than rubberstamp the decision of a subordinate without himself going into the matter. If the decision challenged stands this test as well, the third question that must be answered is,

3. *Was the decision a valid one, bearing in mind the inquiry made and the reasons given in support of it*?

CHARACTER OF A DECISION INVOLVING TRANSFER OF HEADMASTERS WITHIN THE SAME TOWN:

In Greece, the Code for Public Employees distinguishes between transfers from one geographic area to another and

transfers within the same town. Different labels are attached to the two acts, the latter ranking as a "move" (μετακίνηση), in contradistinction to a transfer (μετάθεση) adopted in the former case. The Greek Council of State has consistently adhered to the view that, movement of employees from one department of government to another within the same town is an internal administrative measure and, as such, not susceptible to judicial review—See, *Conclusions from the Jurisprudence of Greek Council of State* 1929-1959, p. 238 and, *Decision* 364/57—*Decisions of Greek Council of State* 1957. A similar view was adopted by the Supreme Court, respecting transfers of employees of central government within the same town provided, always, the transfers did not involve an alteration of status, hierarchically or otherwise—See, *Chrystalla Yiallourou* v. *Republic* (*Minister of Interior And Another*) (1976) 3 C.L.R. 220 and, *Karapataki* v. *Republic* (1982) 3 C.L.R. 88. In the latter case it was emphasized that the transfer rates as an internum of the administration so long as it does not objectively entail an alteration in the position held by the officer concerned in the service. Both cases related to transfers of officers serving in the lower hierarchy of government, required by the schemes of service governing their position, to serve in more than one departments, in accordance with the directions of the appropriate authority. The aforesaid cases do not lay down a hard and fast rule that transfers of public officers within the same town must inevitably be treated as internums of the administration; much will depend on the implications of individual transfers upon the position of the officers concerned.

On the other hand, the position of a headmaster of secondary education cannot readily be compared to an office administrator. The position of a headmaster carries vast responsibilities and the choice of a headmaster for individual schools is a matter of grave importance for our educational system. There is direct authority supporting the proposition that transfers of headmasters of schools of secondary education, be it within the same town, are executory acts subject to judicial review. In *Sofocles Sofocleous* (*No.* 1) v. *Republic* (1972) 3 C.L.R. 56, the Supreme Court exercised revisional jurisdiction over the transfer of a headmaster from one Nicosia secondary school to another and, in the end, annulled the decision for lack of due reasoning. Revisional jurisdiction was similarly exercised

respecting the transfer of a secondary school headmaster within the same town, in *Sofocles Sofocleous* v. *Republic* (1974) 3 C.L.R. 63. That the recourse was dismissed on its merits, does not diminish the force of the decision as a precedent for the existence of jurisdiction to review the transfer of headmasters within the same town. Whether revisional jurisdiction would be exercised over transfers of teachers of secondary education within the same town, is still an open question although, for the reasons that are given hereinbelow as to the implications of the law, jurisdiction may exist in their case as well.

The decisions cited above, are decisions of first instance. They come from Courts of co-ordinate jurisdiction and, as such, are not strictly binding upon me. They are, nevertheless, of high persuasive authority to be followed, except when they embody a wrong principle or mistake the law because of an oversight, or contain an error in their reasoning—See, *Re Cushla Ltd.* [1979] 3 All E.R. 415 and *Frangos And Others* v. *Republic* (1982) 3 C.L.R. 53.

Not only I find no reason for departing from the above decisions of the Supreme Court but, I feel wholly persuaded that they embody a correct principle of the law that should be followed in this case. The Public Educational Service Law and Regulations made thereunder, lay down the same criteria for the transfer of educationalists, whether they concern movement from one school to another within the same town or, from one geographic location to another. The test in both cases are educational needs and the wishes of individual educationalists —see regulation 14(1). Unlike the transfer of public officers governed by Public Service Law—33/67, specific criteria are laid down establishing a firm legal basis governing transfers. This I regard as a legislative acknowledgment that transfers of educationalists, be it within the same town, have a direct impact upon the position of educationalists and, as such, should be amenable to review. Moreover, their implications on the effectiveness of the educational system is another ponderous reason for taking the decision under consideration outside the compass of internal administrative measures. Reflection on the implications of the new classification of schools upon the position of headmasters, leaves me in no doubt that posting to a school on the lower or upper strata of secondary education,

has direct foreseeable repercussions upon their career and standing in the service.

On principle and authority, I rule that the sub judice decision is justiciable. Its origin and merits must be discussed next.

THE MERITS OF THE APPLICATION:

Is the Decision complained of, that of the Minister of Education? —The Sufficiency of the Inquiry—The Reasoning of the Decison.

The decision of the Minister is signified by one word, namely "approved"—a word of ambivalent meaning in the context in which it was used. In *Tooulias* v. *Republic* (1983) 3 C.L.R. 465, I had opportunity to debate the implications of the word "ἐγκρίνεται" (approved) and its proper connotation in the process of decision taking. Primarily it signifies ratification of the act of another, rather than the issue of a decision by the approving body. In *Papakyriacou* v. *Republic—Revisional Jurisdiction Appeal No.* 293, given on 5.7.1983, not yet reported,* the Full Bench of the Supreme Court annulled the contractual appointment of a number of secondary school educationalists for the reason, inter alia, that the decision did not emanate from the body charged by law to decide, in that case the Educational Service Committee, who merely assented to another body's decision. All they did, was to rubberstamp the decision of the Council of Ministers having no authority in the matter, abdicating the duties entrusted to them. The outcome was an abortive decision that was set aside. Even if we were to overlook the apparent implications arising from the manner in which the decision in question was taken, there is nothing to suggest, on a consideration of the records placed before the Court, that the Minister applied himself, other than merely approve, to the matter in hand in order to decide himself how educational needs would best be served, including consideration of individual preferences of educationalists. On the contrary, there is everything to suggest that the Minister of Education did no more than approve the decision of a subordinate, failing, in the end, to assume and exercise the powers entrusted to him by law as the appropriate authority. It is an abuse of power to relinquish the discharge of a legal duty and surrender effective authority to another organ. And as such it is liable to be set

* Now reported in (1983) 3 C.L.R. 870.

aside. Interwoven with this aspect of the case, is the adequacy of the inquiry and the sufficiency of the reasoning of the decision.

There is nothing to suggest that the letter of the applicant for transfer was ever placed before the Minister. On the contrary, there is every indication that it was never heeded or considered. The decision of 16.7.1983 was neither recorded nor embodied in the file of the applicant. The absence of reply is suggestive of total disregard of the letter. Judging from the statement of facts in support of the opposition, it may justifiably be inferred it was never considered, the administration taking the view it had no duty to consider it or reply to the writer. One is inexorably driven to the conclusion that the transfers were made without inquiring into the wishes of headmasters for transfer, in contravention of the provisions of reg. 14(1). At the least the inquiry was inadequate to that extent though on perusal of the records it appears inadequate in many other respects as may be gathered from the reasoning of the decision.

The reasoning of the decision is brief and does not purport to justify the decision. All it does is to assert its necessity in satisfaction of educational needs. Why educational reasons dictated the particular transfers, is not explained. How educational needs were perceived and appreciated in view of the new division of schools, is not mentioned. The intrinsic knowledge of the administration of educational needs does not relieve them of the duty to reason their decision at least to the extent of making possible judicial review.

Time and again it has been emphasized that the reasoning of an administrative decision must be explicit to the extent of enabling the parties affected by the decision to advise themselves as to their rights on the one hand and, administrative Courts to exercise proper control over administrative action, on the other. In *Petrondas* v. *Attorney-General* (1969) 3 C.L.R. 214, at 222, 223, it was pointed out that vague generalities are no substitute for a reasoned decision. Nor repetition, as such, of the statutory criteria absolves the administration of the duty to reason how they apply in the circumstances of a particular case. In *Sofocles Sofocleous* (*No.* 1), supra, it is explained that the reasoning is properly regarded as vague if it does not disclose, as indeed it is the case here, the facts upon which the administration based its decision. Recently, I had occasion, in *Papadopoulos* v. *Republic* (1982) 3 C.L.R. 1070, 1079, to review

the principles baring on the adequacy of the reasoning of an administrative act. Their duty "..... is to articulate as thoroughly as it is possible, the reasons that led it to a particular decision and not content itself (referring to the Public Service Commission) with an enumeration of the criteria taken into account which, almost invariably, take the form of listing the criteria set down by the law. The Greek Council of State, by a series of decisions, enjoins administrative bodies trusted with decision making, to reason their decision in a way disclosing the reasons behind their decision. The facts of the case must be explicitly evaluated. They must not limit their reasoning to listing the guide-lines upon which they relied for their decision". As explained, the decision in this case refers solely to the principle underlying their decision, not the reasons for their decision. It does not, for example, reason why head-masters with lesser experience than the applicant were placed in charge of Lyceums, schools of exalted status under the new scheme, in preference to the applicant—a headmistress with a long and successful career, as evidenced by a series of documents produced before the Court—see exhibits 2(a), 2(b), 2(c), 2(d) and 4.

For all the above reasons, the sub judice decision is hereby annulled so far as it concerns the applicant and interested parties, namely, Mr. Hadjinicolaou, Mr. Prodromou, Mr. Chambakis, Mrs. Dymiotou, Mr. Karayiannis, Mr. Menas, Mr. Philippou, Mr. Yiannakas, Mr. Papavassiliou and Mr. Constantinides.

This judgment rests on the premise common to the parties that the transfers did not entail a change in the status of head-masters and, therefore, could be validly made by the Minister of Education in his capacity as appropriate authority under Law 10/69 and not by the Educational Service Committee. This proposition I regard as doubtful, considering the implications stemming from the restructure of the schools, their division, and the exalted status of Lyceums under the new scheme. If it affects their status, then the Public Service Committee is the appropriate organ for making the transfers. The confusion is probably due to the fact that the authorities introduced far ranging changes in the structure of secondary schools without recourse to legislation, relying on a series of administrative measures. I am definitely of opinion that important changes,

reflecting changes in policy, should not be undertaken except within the framework of legislation. It is, in the first place, desirable that important changes in education, affecting our educational system and the quality of education in general, should have explicit approval from the legislature. Also, legislation provides for certainty and a more definite guide to the rights of parties affected thereby. Such legislation should lay down the criteria that should govern assignement of educationalists to the first and second level of secondary education.

As may be noticed, I concluded the hearing of this case within the shortest possible interval of time, in the interest of effective judicial review. Judicial control loses its value if subsequent events render judicial deliberations superflous. It is hoped that the administration will proceed with equal speed, first in erasing the effects of the decision invalidated by this judgment and, then, just as quickly, come to grips with the problem of assigning duties to headmasters at Gymnasiums and Lyceums, after due consideration of all factors bearing on the matter.

In the result, the sub judice decision, so far as the applicant and interested parties are concerned, is hereby annulled and set aside. Let there be no order as to costs.

Sub judice decision annulled. No order as to costs.