1984 July 14

[TRIANTAFYLLIDES, P., A. LOIZOU, SAVVIDES, STYLIANIDES AND PIKIS, JJ.]

ATHLITIKOS PNEVMATIKOS OMILOS "ETHNIKOS",
Applicant,

v.

KYPRIAKOS ORGANISMOS ATHLITISMOU, THROUGH ANOTATI DIKASTIKI EPITROPI ATHLITISMOU,
Respondent.

(*Case No.* 415/83).

KYPRIAKI OMOSPONDIA PODOSFEROU,
Applicants,

v.

KYPRIAKOS ORGANISMOS ATHLITISMOU, THROUGH ANOTATI DIKASTIKI EPITROPI ATHLITISMOU,
Respondent.

(*Case No.* 432/83).

Cyprus Sports Organisation (General Orders and Discipline) Regulations, 1970—Regulation 14(1)(a) ultra vires section 19(2)(a) of the Cyprus Sports Organisation Law, 1969 (Law 41/69).

Statutes—Construction—Ejusdem generis rule—Principles applicable.

Subsidiary legislation—Validity—Whether ultra vires enabling enactment—Principles applicable.

The sole issue in these recourses was whether regulation 14(1)(a)* of the Cyprus Sports Organization (General Orders and Discipline) Regulations, 1970, which established the High Sports Judicial Committee ("A.D.E.A.") and conferred to it power to deal with a dispute concerning the requirements of the General

* Regulation 14(1)(a) is quoted at pp. 1160-1161 post.

Rules of K.O.P. for admission to the third division of K.O.P. was ultra vires section 19(2)(a)** of the Cyprus Sports Organization Law, 1969 (Law 41/69).

Held, per Stylianides, J., Triantafyllides, P., A. Loizou and Savvides JJ. concurring – (Pikis J. dissenting) that the legislature conferred on the Cyprus Sports Organization (K.O.A.) restricted rule-making power by s.19(2); that the words "ἀθλητισμοῦ ἐν γένει" ("sports in general") in s. 19(2)(a) should be construed subject to the *ejusdem generis rule* as the expressions preceding it have specific meanings and share common characteristics and they belong to the same genus; that they were used by the legislature to bring within the ambit of the enacting words those species which complete the genus but have been omitted from the preceding list; that the omnibus power to make regulations for the carrying into effect of the Law was conferred on the Council of Ministers; that the Cyprus Sports Organization (General Orders and Discipline) Regulations, 1970, have to be examined with a view to deciding whether they are ultra vires on the construction of the relevant enabling power concerned; that regulation 14(1)(a) vesting jurisdiction in A.D.E.A. to deal with the case in which the sub judice decision was issued is ultra vires and void; and that, consequently, the sub judice decision is null and void and of no effect whatsoever.

Sub judice decision annulled.

Cases referred to:

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

Republic v. *Vassiliades* (1967) 3 C.L.R. 82;

Pikis v. *Republic* (1968) 3 C.L.R. 303 at pp. 305-306;

Papadopoulos v. *Republic* (1970) 3 C.L.R. 169 at p. 173;

Republic v. *Perikleous* (1972) 3 C.L.R. 63 at p. 68;

Constantinides v. *Republic* (1969) 3 C.L.R. 523 at p. 530;

Republic v. *Georghiades* (1972) 3 C.L.R. 594;

Christou and Others v. *Republic* (1982) 3 C.L.R. 634 at p. 639;

Police v. *Hondrou*, 3 R.S.C.C. 82;

** Section 19(2)(a) provides as follows:

"The Board of the Cyprus Sports Organization, with the approval of the Council of Ministers makes Regulations—

(a) regulating sports etiquette, sports disciplinary offences, sports discipline and the Cyprus sports in general".

Christodoulou v. *Republic*, 1 R.S.C.C. 1;

Marangos and Others v. *Municipal Committee of Famagusta* (1970) 3 C.L.R. 7 at p. 13;

Attorney-General v. *Brown* [1920] 1 K.B. 773 at p. 791;

Papaxenophontos and Others v. *Republic* (1982) 3 C.L.R. 1037;

Quazi v. *Quazi* [1979] 3 All E.R. 897 at p. 902;

Cooney v. *Covell* (1901) 21 N.Z.L.R. 106 at p. 108;

Brownsea Heaven Properties Ltd. v. *Poole Corporation* [1958] 1 All E.R. 205 at p. 213;

Evans v. *Cross* [1938] 1 All E.R. 751 at p. 752;

Stavrou v. *Republic* (1976) 3 C.L.R. 66 at pp. 70–72;

Spyrou and Others (No. 2) v. *Republic* (1973) 3 C.L.R. 627.

Recourses.

Recourses against the decision of the respondent whereby it was decided that the applicant in recourse No. 415/83 did not satisfy the reguirements of the General Rules of K.O.P. for its admission to the 3rd Division of K.O.P. and that the decision of the General Meeting of K.O.P. was contrary to the relevant rules and regulations.

A.S. Angelides, for the applicant in Case No. 423/83 and with *I. Typographos* for the applicant in Case No. 415/83.

M. Christofides, for the respondent.

A. Georghiou, for interested party "Doxa".

Cur. adv. vult.

TRIANTAFYLLIDES P.: The first judgment will be delivered by Mr. Justice Stylianides.

STYLIANIDES J.: By these recourses the applicants seek the annulment of the act and/or decision of the respondent dated 7.10.1983 whereby it was decided (a) that the applicant in Recourse No. 415/83 did not satisfy the requirements of the General Rules of K.O.P. for its admission to the 3rd Division of K.O.P. and (b) that the decision of the General Meeting of K.O.P. was contrary to the relevant rules and regulations.

Applicant in Recourse No. 415/83 is a sports club of Deftera village. Applicant in Recourse No. 423/83 is K.O.P. It is the Cyprus Football League or Association.

K.O.A., the Cyprus Sports Organisation, was established by Law No. 41/69, which was amended by Laws No. 22/72, 2/73, 51/77, 27/79 and 79/80. It is the highest sports authority in the Republic (section 4(1)). Its members are appointed by the Council of Ministers. It is a corporation of public law though some of its activities may not be in the sphere of public law.

By the Cyprus Sports Organisation (General Orders and Discipline) Regulations, 1970, published in the Official Gazette under Notification No. 832 on 13.10.1970 a High Sports Court was established, which, by regulation 3 of the amending regulations of 1971, published in the Official Gazette, Supplement No. 3, Notification No. 360, was renamed to High Sports Judicial Committee (A.D.E.A.).

These regulations were made in virtue of the power vested in K.O.A. by s.19(2)(a) of Law 41/69.

These recourses were dealt with by a Judge of this Court under subsection (2) of s.11 of the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law No. 33 of 1964). He dismissed the recourses on the ground that the act challenged was not justiciable, being in the domain of private law. The applicants appealed to the Court from that decision.

The Court in Revisional Appeals No. 357 and 359 allowed the appeals, having held that the sub judice decision was issued by A.D.E.A. in the exercice of a unilateral power for a public purpose in the domain of public law and, therefore, it is amenable to the jurisdiction of this Court.

As it was said in Revisional Appeals No. 323–326, the jurisdiction exercised by a Judge or Judges of the Supreme Court under subsection (2) of section 11 is vested in the Full Supreme Court, and not in the said Judge or Judges as such, as it the case with the jurisdiction vested in Judges of District Courts and Assizes, from whose decisions an appeal lies to the Supreme Court. It is only for reasons of expediency that a Judge or Judges of the Supreme Court may exercise such jurisdiction. The litigant concerned, however, is entitled to have the matter adjudicated upon by the Full Court wherein the jurisdiction in effect lies. The legislator made a distinction between appeals

from the decision of one or more Judges of the Supreme Court to the Full Court on the one hand and appeals from other Courts with inferior jurisdiction on the other hand. The distinction is due to the difference between the two jurisdictions—(*Attorney-General* v. *Ibrahim*, 1964 C.L.R. 195; *Republic* v. *Christakis Vassiliades*, (1967) 3 C.L.R. 82). The legislator provided for these two kinds of appeals in two different subsections of the same section.

A recourse is aimed at an administrative decision. The subject-matter of a revisional appeal continues, in substance, to be the administrative decision which is challenged by the recourse; and whether or not the applicant is entitled to the relief claimed—(*Costas Pikis* v. *The Republic, Minister of Interior and Another*, (1968) 3 C.L.R. 303, at pp. 305-306). The jurisdiction of this Court emanates from Article 146 of the Constitution and is defined therein, and the jurisdiction of the Greek Council of State sitting on appeal from the decisions of the ordinary administrative Courts is not analogous to the jurisdiction of this Court—(*Miltiades Papadopoulos* v. *The Republic*, (1970) 3 C.L.R. 169, at p. 173; *The Republic* v. *Savvas Perikleous*, (1972) 3 C.L.R. 63, at p. 68).

The question to be determined in a revisional appeal continues to be the validity of the administrative decision which is challenged by the recourse, as seen in the light of the proceedings before the trial Judge, including his judgment. The recourse under Article 146 is made to the Court; and its subject is all along the validity of the administrative act or decision challenged —(*Constantinides* v. *The Republic* (*Minister of Finance*), (1969) 3 C.L.R. 523, at p. 530).

The Court in a revisional appeal is seized with the recourse itself. When hearing an appeal from a judgment of one of its members, it approaches the matter as a complete re-examination of the case with regard to the issues raised by the parties on appeal or to the extent that they have been left undetermined by the trial Judge or in case of a successful appeal in addition to the above to the extent of a cross-appeal. The litigant is entitled to the opinion of the Court—(*The Republic* v. *Lefkos Georghiades*, (1972) 3 C.L.R. 594).

Triantafyllides, P., in *David Christou and Others* v. *The Repblic of Cyprus*, (1982) 3 C.L.R. 634, at p. 639, said:-

> "I would, indeed, be inclined to the view that there is nothing to prevent the filing of applications such as those now before me because, in the light of the relevant provisions of section 11 of Law 33/64, a revisional jurisdiction appeal is to be regarded as a continuation before the Full Bench of the Supreme Court of the proceedings in the recourse concerned which took place, in the first instance, before a Judge of the Court; and what, in essence, continues to be in issue at the stage of the revisional jurisdiction appeal is still the validity of the subject-matter of the particular recourse in which the appealed from judgment has been given".

The Court after the decision on the issue of jurisdiction proceeded and heard the recourses on the merits.

The first and, in my opinion, the main ground on which the legality of the sub judice decision is challenged is that the Regulations establishing A.D.E.A. and conferring on it the jurisdiction to deal with the subject-matter of the decision challenged is ultra vires the Law.

In a country with a Constitution like ours, where there is a rather strict separation of powers, the legislative power is exercised by the House of Representatives. This, however, does not prevent the House of Representatives from delegating its power to legislate in respect of prescribing the form and manner of, and the making of other detailed provisions for, the carrying into effect and applying the particular provisions within the framework laid down by such law. In a modern society with perplexed needs and many problems it is not only permissible but it has been a common practice for the legislature to enact a law and leave the particulars for its implementation and carrying out of the Law to be supplemented by subordinate legislation. Such a course is presumed to be included in the will of the people as expressed through the particular law of its elected representatives—(*The Police* v. *Hondrou*, 3 R.S.C.C. 82). The subordinate legislation must not be beyond the bounds of the enabling enactment.

The subordinate legislation, in order to be valid, must be intra vires the statute which authorised the making of it. Delegated legislation is both necessary, convenient and desirable but its content should always be within the ambit of the enabling enactment. If the sub judice administrative decision was reached in virtue of a Law, which includes public instrument, which was not validly made, such decision has to be annulled and to be declared to be null and void and of no effect whatsoever, as having been based on an invalid enactment—(*Christodoulou* v. *The Republic*, 1 R.S.C.C. 1).

Subordinate legislation may be utlra vires (a) as to the extent and contents of it, or (b) as to the mode in which it has been made. When a subsidiary legislation is examined with a view to deciding on a contention that it is ultra vires, the answer to this question depends, in every case, on the true construction of the relevant enabling power concerned—(*Marangos and Others* v. *The Municipal Committee of Famagusta*, (1970) 3 C.L.R. 7, at p. 13; *Attorney-General* v. *Brown*, [1920] 1 K.B. 773, at p. 791; *Nicos Papaxenophontos & Others* v. *The Republic*, (1982) 3 C.L.R. 1037).

K.O.A. was established under Law 41/69. By s.19 (now 18) of the Cyprus Sports Organisation Law the legislature delegated its power for subordinate legislation to two bodies: (a) the Council of Ministers and (b) the Board of Management of K.O.A.

Section 18 (original 19), as enacted, reads as follows:-

"18.-(1) Τὸ Ὑπουργικὸν Συμβούλιον ἐκδίδει Κανονισμοὺς διὰ τὴν καλυτέραν ἐφαρμογὴν τῶν διατάξεων τοῦ παρόντος Νόμου καὶ καθορίζοντας πᾶν ὅ,τι δυνάμει τῶν διατάξεων τοῦ παρόντος Νόμου, δέον ἢ δύναται νὰ καθορισθῇ.

(2) Τὸ Διοικητικὸν Συμβούλιον, τῇ ἐγκρίσει τοῦ Ὑπουργικοῦ Συμβουλίου, ἐκδίδει Κανονισμοὺς-

(α) ρυθμίζοντας τὰ τῆς ἀθλητικῆς δεοντολογίας, τῶν ἀθλητικῶν παραπτωμάτων, τῆς ἀθλητικῆς πειθαρχίας καὶ τὰ τοῦ Κυπριακοῦ ἀθλητισμοῦ ἐν γένει.

(β) προνοοῦντας περὶ τῆς ἱδρύσεως ταμείου ἀπονομῆς ὠφελημάτων ἀφυπηρετήσεως τῶν μελῶν τοῦ προσω-

πικοῦ αὐτοῦ καὶ ρυθμίζοντας τοὺς ὅρους τῆς ἀπονομῆς καὶ καταβολῆς αὐτῶν.

(3) Κανονισμοὶ γινόμενοι ἐπὶ τῇ βάσει τοῦ παρόντος ἄρθρου κατατίθενται εἰς τὴν Βουλὴν τῶν 'Αντιπροσώπων. 'Εὰν μετὰ πάροδον εἴκοσι καὶ μιᾶς ἡμερῶν ἀπὸ τῆς τοιαύτης καταθέσεως ἡ Βουλὴ τῶν 'Αντιπροσώπων δι' ἀποφάσεως αὐτῆς δὲν τροποποιήσῃ ἢ ἀκυρώσῃ τοὺς οὕτω κατατεθέντας Κανονισμοὺς ἐν ὅλῳ ἢ ἐν μέρει, τότε οὗτοι ἀμέσως μετὰ τὴν πάροδον τῆς ὡς ἄνω προθεσμίας δημοσιεύονται ἐν τῇ ἐπισήμῳ ἐφημερίδι τῆς Δημοκρατίας καὶ τίθενται ἐν ἰσχύϊ ἀπὸ τῆς τοιαύτης δημοσιεύσεως. 'Εν περιπτώσει τροποποιήσεως τούτων ἐν ὅλῳ ἢ ἐν μέρει ὑπὸ τῆς Βουλῆς τῶν 'Αντιπροσώπων οὗτοι δημοσιεύονται ἐν τῇ ἐπισήμῳ ἐφημερίδι τῆς Δημοκρατίας ὡς ἤθελεν οὕτω τροποποιηθῇ ὑπ' αὐτῆς καὶ τίθενται ἐν ἰσχύϊ ἀπὸ τῆς τοιαύτης δημοσιεύσεως".

("18-(1) The Council of Ministers may issues regulations for the better carrying out of the provisions of this Law and regulating everything which, by the provisions of this Law, must or may be regulated.

(2) The Managing Committee, with the approval of the Council of Ministers, may issue regulations—

(a) regulating matters of sports etiquette, sports disciplinary offences, sports discipline and Cyprus sports in general;

(b) providing for the creation of a fund for the grant of retirement benefits of the members of its staff and regulating the conditions of the grant and payment to them.

(3) Regulations made on the basis of this section are placed before the House of Representatives. If after the lapse of 21 days after such submission, the House of Representatives does not amend or annul the so submitted regulations in whole or in part, then they immediately after the expiry of the above time limit are published in the official Gazette and they take effect as from such publication. In case they are amended in whole or in part by the House of Representatives they are published in the official Gazette as they may have been amended by the

the House of Representatives and they take effect as from such publication").

In virtue of s.19(2)(a) the Cyprus Sports Organization (General Orders and Discipline) Regulations, 1970, were made. They were approved by the Council of Ministers, placed before the House of Representatives, amended by the House of Representatives and, as amended, were published in the Official Gazette, Supplement No. 3, on 13.10.1970, under Notification No. 832.

It is noteworthy that the omnibus power for subordinate legislation was not conferred by the Law on K.O.A. but on the Council of Ministers. The general provision empowering the rule-making authority to issue regulations for carrying out the purpose of the Law was confined to an authority higher than K.O.A.—the Council of Ministers. On K.O.A. a limited power was conferred.

In construing s.19(2)(a) we have to take into consideration the structure and contents of the Law as a whole. The English version of s.19(2)(a) runs:-

"19.-(2)(a) regulating sports etiquette, sports disciplinary offences, sports discipline and the Cyprus sports in general".

It was submitted that this provision should be construed subject to the *ejusdem generis rule*.

As the Latin words of this suggest, the rule applies to cut lown the generality of any expression where it is preceded by ı list of two or more expressions having more specific meanings nd sharing some common characteristics from which it is ossible to recognise them as being species belonging to a ingle genus and to identify what the essential characteristics f that genus are. The presumption then is that the draftsman's nind was directed only to that genus and that he did not, by is addition of the general word to the list, intend to stray eyond its boundaries, but merely to bring within the ambit of he enacting words these species which complete the genus but ave been omitted from the preceding list either inadvertently r in the interests of brevity—(*Quazi* v. *Quazi*, [1979] 3 All E.R. 97, at p. 902, per Lord Diplock).

The *ejusdem generis rule* is well stated in a New Zealand case

—*Cooney* v. *Covell*, (1901) 21 N.Z.L.R. 106, at p. 108—per Williams, J., in the following terms:-

> "There is a very well known rule of construction that if a general word follows a particular and specific word of the same nature as itself, it takes its meaning from that word, and is presumed to be restricted to the same genus as that word. No doubt that rule is one which has to be followed with care; but if not to follow it leads to absured results, then I am of opinion that it ought to be followed".

Where there is a particular description of objects, sufficient to identify what was intended, followed by some general or "omnibus" description, this latter description will be confined to objects of the same class or kind as the former—(*Craies on Statute Law*, 7th edition, p. 179).

In *Brownsea Haven Properties, Ltd.* v. *Poole Corporation*, [1958] 1 All E.R. 205, the words "in any case" in the provision of the Town Police Clauses Act, 1847, s.21, giving power to control traffic routes "in all times of public processions, rejoicings, or illuminations, and *in any case* when the streets are thronged or liable to be obstructed....." were held to be confined to cases within the category of which public processions, rejoicings and illuminations are specific instances and should never extend to cover the day to day traffic conditions. Lord Evershed, M.R., said at p. 213:-

> "In the end, the question may resolve itself into no more than that of determining, on the true construction of the section, what are the limits (if any) of the 'category' introduced by the words 'in any case': and in my judgment the category is a limited one which, on any view of it, excludes the circumstances of the six months' period of April to October. I, therefore, if I am free to do so in light of the decided cases, would hold that the general words must be limited so as to be applicable to instances only of particular and extraordinary occasions, a view which appears to me to be in better conformity with the general tenor or purpose of the section".

In *Evans* v. *Cross*, [1938] 1 All E.R. 751, Lord Hewart, L.C.J., in construing the definition of "traffic sign" in s.48(9) of the Road Traffic Act, 1930, said at p. 752:-

"Then subsect. (9) provides:

In this part of this Act, the expression 'traffic sign', includes all signals, warning sign-posts, direction posts, signs, or other devices for the guidance or direction of persons using roads.....".

There follows sect. 49, which provides:

".....where any traffic sign being a sign for regulating the movement of traffic or indicating the route to be followed by traffic, has been lawfully placed on or near any road in accordance with the provisions of the last preceding section, any person driving or propelling any vehicle who ..... (b) fails to conform to the indication given by the sign, shall be guilty of an offence.

In order, therefore, to bring what happened here within the scope of this part of the Act, it must be made to appear (i) that this line so painted on the highway was a 'device' within the meaning of sect. 48(9), and (ii) that it was a device indicating the route to be followed by traffic within sect. 49. In my opinion, the word 'device' refers to things ejusdem generis with signals, warning sign-posts, direction posts and signs, and it cannot be said that this painted line was a sign-post or sign of that nature".

In the present case the relevant regulations are 11(1), 13 and 14(1) which read as follows:-

"11.-(1) Ἐπὶ τῷ τέλει ἐνασκήσεως τῶν ἁρμοδιοτήτων τοῦ Ὀργανισμοῦ δυνάμει τοῦ ἄρθρου 6(2)(ια)(ιγ) τοῦ Νόμου, καθιδρύεται Ἀνώτατον Ἀθλητικὸν Δικαστήριον συγκείμενον ἐξ ἑνὸς προέδρου, ἑνὸς ἀντιπροέδρου καὶ τριῶν ἑτέρων μελῶν, διοριζομένων ὑπὸ τοῦ Ὀργανισμοῦ.

13. Τὸ Ἀνώτατον Ἀθλητικὸν Δικαστήριον κέκτηται ἐξουσίαν ὅπως ρυθμίζῃ τὰ τῶν συνεδριάσεων αὐτοῦ, τὴν ἐνώπιον αὐτοῦ ἀκολουθητέαν διαδικασίαν καὶ καθορίζῃ τὰ τέλη καὶ ἔξοδα τῆς ἐνώπιον αὐτοῦ διαδικασίας.

14. Τὸ Ἀνώτατον Ἀθλητικὸν Δικαστήριον κέκτηται τὰς ἑξῆς ἁρμοδιότητας:

(1) Ὡς πρωτοβάθμιον δικαστήριον-

(α) ὅπως ἐκδικάζῃ ἀθλητικὰς δικαστικὰς ὑποθέσεις

όσάκις τὸ καταστατικὸν τῆς οἰκείας ἀθλητικῆς ὁμοσπονδίας δὲν προβλέπῃ περὶ τούτου.

(β) ὅπως ἐκδικάζῃ ἀθλητικὰ παραπτώματα, ὁσάκις τὸ καταστατικὸν τῆς οἰκείας ἀθλητικῆς ὁμοσπονδίας δὲν προβλέπῃ περὶ τούτου.

(γ) ὅπως ἐκδικάζῃ ἀθλητικὰ παραπτώματα συνιστάμενα εἰς ἀντιαθλητικὴν συμπεριφορὰν ἢ εἰς παράβασιν ἢ μὴ συμμόρφωσιν πρὸς τοὺς παρόντας Κανονισμούς".

("11-(1) For the purpose of exercising the competence of the Organisation under section 6(2)(ia)(iγ) of the Law a High Sports Court is established composed of a President, a Vice-President and three other members appointed by the Organisation.

13. The High Sports Court has power to regulate matters relative to its meetings, the procedure to be followed before it and the costs of the procedure before it.

14. The High Sports Court has the following competences:

(1) As a first instance Court—

(a) to try athletic sports cases whenever the articles of association of the relative athletic Organisation do not make provision for the purpose;

(b) to try athletic offences whenever the articles of association of the relative athletic organisation do not make any provision for the purpose.

(c) to try athletic offences consisting of antiathletic behaviour or to a contravention or non-compliance with these regulations").

The term "ἀθλητικὴ δικαστικὴ ὑπόθεσις" is defined in regulation 2 as follows:-

" "Αθλητικὴ δικαστικὴ ὑπόθεσις' σημαίνει οἱανδήποτε διαφορὰν ἥτις ἤθελεν ἀναφυῆ μεταξὺ ἀθλητικῶν ὁμοσπονδιῶν, ἢ μεταξὺ ἀθλητικῶν σωματείων ἢ μεταξὺ ἀθλητικῶν ὁμοσπονδιῶν, ἀθλητικῶν σωματείων, ἀθλητῶν, προπονητῶν, διαιτητῶν καὶ κριτῶν, περιλαμβάνει δὲ πᾶσαν διαφορὰν σχέσιν ἔχουσαν πρὸς τὸν ἀθλητισμὸν καὶ πᾶσαν παράβασιν

ἢ μὴ συμμόρφωσιν πρὸς οἱονδήποτε τῶν παρόντων Κανονισμῶν".

(" 'Athletic Court case' means any dispute which might arise between athletic associations or between athletic clubs or between athletic associations, athletic clubs, athletes, trainers, referees and judges, it also includes every dispute relevant to athletics and every contravention or non-compliance to any of these regulations").

Law 41/69 was amended by Law 22/72. The material amendments, so far as this case is concerned, are the addition of the words" τῆς σχετικῆς δικονομίας" ("relevant procedure") after the word "πειθαρχίας" ("discipline") in regulation 19(2)(a) and the addition of a new paragraph (b) that reads: "(β) καθορίζοντας τὰς ἐπιβλητέας ποινὰς" ("fixing the punishments to be imposed").

Law 22/72 was given retrospective operation as from 13th October, 1970, the date of the publication in the Official Gazette of the Regulations in question. It is not necessary to consider whether there is a procedural ultra vires in this case. Certainly s.27 of the Interpretation Law providing for the exercice of statutory power between the passing and the commencement of a Law is not applicable.

Be that as it may, s.19(2)(a) and (b), which was renumbered into 18, in its amended form reads:-

"19.-(2) Τὸ Διοικητικὸν Συμβούλιον, τῇ ἐγκρίσει τοῦ Ὑπουργικοῦ Συμβουλίου, ἐκδίδει Κανονισμοὺς-

(α) ρυθμίζοντας τὰ τῆς ἀθλητικῆς δεοντολογίας, τῶν ἀθλητικῶν παραπτωμάτων, τῆς ἀθλητικῆς πειθαρχίας, τῆς σχετικῆς δικονομίας καὶ τὰ τοῦ Κυπριακοῦ ἀθλητισμοῦ ἐν γένει.

(β) καθορίζοντας τὰς ἐπιβλητέας ποινάς".

("The Managing Committee, with the approval of the Council of Ministers may issue regulations—

(a) regulating matters of sports etiquette, sports disciplinary offences, sports discipline, the relative legal procedure and Cyprus sports in general;

(b) fixing the punishments to be imposed").

The amendment to s.6 of the original Law (now 5) by s.2(b) of Law 22/72, setting out the object and functions of K.O.A., does not in any way affect its delegated legislative power as those functions are exercisable subject to the provisions of the Law.

The case in which the sub judice decision was issued by A.D. E.A. was a dispute as to the membership of the 3rd Division of K.O.P., that is to say, if the winner of S.T.O.K. championship, an inferior football association, satisfied the requirements of the General Rules of K.O.P. for admission to the 3rd Division of K.O.P. The General Meeting of K.O.P. decided that it did but the interested party, Football Club "DOXA" of Paleometocho, resorted to A.D.E.A.

Our inquiry will be restricted to the limits of the case under consideration.

It is plain that s.19(2)(a) empowered K.O.A. to make regulations respecting disciplinary offences. The words preceding "ἀθλητισμοῦ ἐν γένει" ("sports in general") are specific words forming one category, one genus. They have common characteristics. They refer to etiquette and discipline. "Sports in general" has to be construed subject to the limitation of the *ejusdem generis rule*. The whole tenor of the Law, including s.19(1), leaves no doubt that the legislature intended not to confer sweeping powers on K.O.A. The general powers for rule-making were delegated to the Council of Ministers. To interpret "sports in general" in the context it is used in s.19(2)(a) as not being restricted to the same genus as the preceding words would lead to absurd results and it would be inconsistent with other specific provisions of the Law.

It was canvassed by counsel for the respondents that s.5(2)(ia), as amended by s.2(b) of Law 22/72, empowered K.O.A. and the organs established by it to deal with the dispute in this case. With respect, this provision enlarged the functions of K.O.A. but it left totally unaffected the limited legislative power conferred on K.O.A. by s.19(2) of the Law. Furthermore the provision of s.5(2)(ia) has to be read subject to the last section of the Law, s.20 (now 19), that reads:-

"Οὐδὲν τῶν ἐν τῷ παρόντι Νόμῳ θὰ ἐπηρεάζῃ καθ' οἱονδήποτε

τρόπον τὰς ὑφισταμένας σχέσεις ἀθλητικῶν ὁμοσπονδιῶν, ὀργανώσεων ἢ σωματείων μεταξὺ των ἢ πρὸς ἐξωκυπριακὰς ἀρχὰς καὶ ὀργανώσεις".

("Nothing in this Law will affect in any way the existing relations between athletic associations, organisations or clubs between them or authorities and organisations outside Cyprus").

To sum up, the legislature conferred on K.O.A. restricted rule-making power by s.19(2). The words "ἀθλητισμοῦ ἐν γένει" ("sports in general") in s.19(2)(a) should be construed subject to the *ejusdem generis rule* as the expressions preceding it have specific meanings and share common characteristics and they belong to the same genus. They were used by the legislature to bring within the ambit of the enacting words those species which complete the genus but have been omitted from the preceding list. The omnibus power to make regulations for the carrying into effect of the Law was conferred on the Council of Ministers. The Cyprus Sports Organization (General Orders and Discipline) Regulations, 1970, have to be examined with a view to deciding whether they are ultra vires on the construction of the relevant enabling power concerned. Regulation 14(1)(a) vesting jurisdiction in A.D.E.A. to deal with the case in which the sub judice decision was issued is ultra vires and void. Consequently, the sub judice decision is null and void and of no effect whatsoever.

In the result the sub judice decision is annulled but in all the circumstances of these cases I would make no order as to costs.

PIKIS J.: Earlier it was decided that decisions of A.D.E.A.—Supreme Athletic Tribunal—are justiciable under Article 146.1 because of their impact on the rights of athletic bodies and public interest in such decisions. Now, we are concerned to decide the legality of subsidiary legislation providing for the establishment of A.D.E.A. and definition of its jurisdiction (the subsidiary legislation setting up A.D.E.A. defining its jurisdiction, was published in the Gazette of 13.10.1970—hereafter referred to as "The Regulations").

The submission on behalf of "ETHNIKOS"—the appellants—the athletic club that questioned the decision of A.D.E.A.,

ruling against its elevation to the ranks of K.O.P. is that the Regulations are ultra-vires the law in two respects:-

(a) For lack of power or authority on the part of K.O.A. —Cyprus Organisation for Athletics—to legislate for the establishment of an athletic tribunal and,

(b) if power vested in K.O.A. to set up such tribunal, transgression of powers by entrusting to A.D.E.A. jurisdiction to heed a dispute, such as the present, a dispute between athletic associations.

Moreover, a faint attempt was made to challenge the decision on the merits, arguing that "ETHNIKOS" became eligible to join K.O.P. on account of the geographical proximity between the villages of Pano and Kato Deftera, and the absence of social boundaries between the two villages. Consequently, the two villages should be regarded as one entity, notwithstanding provisions in the Articles of K.O.P. defining a village by reference to legislation that does not heed blurring of geographical boundaries. The villages of Pano and Kato Deftera are two distinct villages, whereas it is undisputed that the inhabitants of Pano Deftera are less than 1500, a prerequisite for elevation to the ranks of K.O.P. under the Articles of this association.

To put the issues in perspective, it is, I believe, necessary to make a brief reference to the facts of the case, as well as the legislation invoked by K.O.A. as enabling it to set up A.D.E.A. and vest it with jurisdiction to heed disputes similar to the present one.

The Facts:

K.O.P. is the principal Football Association of the country. Member clubs are grouped in three divisions—the first, second and third. Annual championships are organised among member clubs of each division, and a system of relegation is in force.

S.T.O.K. is a secondary football association, mostly comprising clubs seated in rural communities. Like K.O.P. it organises annual championships. The winner of the competition becomes eligible, under the Articles of K.O.P., to join the third division of K.O.P. provided it satisfies certain requirements.

One such requirement is that the club be seated in a village with a population of over 1500.

"ETHNIKOS" won the championship of S.T.O.K. for the year 1982–83. They applied to become members of K.O.P. By a decision taken at a general meeting of its members, it was decided to admit "ETHNIKOS" to its ranks. The decision was challenged by another club belonging to S.T.O.K., affected by the decision, before A.D.E.A.. A.D.E.A. ruled that notwithstanding the moral claims of "ETHNIKOS" to become a member of K.O.P., the Articles of K.O.P. made that impossible because it was seated at a village with less than 1500 inhabitants. "ETHNIKOS" raised the present proceedings with a view to the annulment of the decision of A.D.E.A. We may dispose of the appeal on the merits by holding that the plain provisions of the relevant Articles of K.O.P. left no alternative to A.D.E.A. to rule but as they did. Pano Deftera had a population of less than 1500 inhabitants; consequently, "ETHNIKOS" was barred from joining the ranks of K.O.P. by the very Articles under which they applied to join K.O.P.

Next, we shall focus attention on the submissions bearing on the legality of the Regulations and the extent of jurisdiction that could be legitimately entrusted to A.D.E.A.

Validity of 1970 *Regulations:*

Subsidiary legislation is a permissible but exceptional mode of legislating, exceptional in the sense that the legitimacy of its provenance must be strictly established. The underlying theme of the Cyprus Athletics Organisation Law—41/69, was the establishment of a central body to take charge of, regulate and promote all aspects of sport. This body was styled "K.O.A.", that is, the Cyprus Organisation for Athletics. In its original state, the law conferred power on K.O.A. to make, with the approval of the Council of Ministers, Regulations regulating sport etiquette, disciplinary offences for breach of athletic discipline and, matters of Cyprus sport in general — s.19(2)(a). This empowering provision was amended by s.3 of Law 22/72, in two respects:–

(a) By the addition of the words "relevant procedure" (σχετική δικονομία) in the empowering clauses of s.19(2)(a) and,

(b) by conferring power, in a separate paragraph, to provide punishment for breach of athletic code of discipline.

We need not examine the breadth of the enabling provisions of s.19(2)(a) in its original form for, by virtue of the provisions of s.4 of Law 22/72, the law was given retrospective effect from 13.10.1970, that is, the date on which the Regulations were published in the gazette. And the question arises whether s.19(2)(a), as amended, empowered K.O.A. to set up A.D.E.A., that is, a tribunal with jurisdiction to apply the disciplinary code and resolve disputes referrable to it. In my judgment, th answer is in the affirmative. The word "δικονομία" (procedure), signifies, par excellence, procedure before a Court, tribunal or other body exercising power akin to judicial or disciplinary. The interposition of "procedure", in the context of s.19(2)(a), resulted not only in the expansion of the list of the substantive causes in respect of which subsidiary legislation could be introduced, but broadened considerably the genus of the causes, if one was discernible, with noticeable effects on the ambit of the concluding provisions of the sub-section, an omnibus provision, conferring power to regulate matters bearing on athletics in general. The genus, if one was disclosed, was to regulate, by appropriate means, matters relevant to conduct and discipline in sport. The most obvious means of accomplishing these objects, was through the establishment of a tribunal to apply standards in sport and discipline detractors therefrom. I am in no doubt the law conferred power on K.O.A. to provide for the establishment of A.D.E.A., in the manner envisaged therein. This procedure set down by law, was scrupulously followed; the Regulations had the approval of the Council of Ministers, and were laid before the House of Representatives for the period specified in s.19(3), before their promulgation in the gazette. Hence, I conclude that A.D.E.A. was validly established. There remains to decide whether it had jurisdiction to take cognizance of the issue under consideration, which, reduced in its basic elements, was a dispute between two athletic associations.

The Jurisdiction of A.D.E.A.:

The basic law, as amended by s.2(b) of Law 22/72, empowered K.O.A. to delegate to committees, organs or bodies, the establishment of which was deemed necessary, the exercise of any

powers vested in K.O.A. by s.6(2). K.O.A. was empowered, inter alia, by s.6(2)(k) of the Law to regulate every dispute between athletic associations and athletic clubs. It is in exercise of this power they delegated authority to K.O.A. to resolve, in the first instance, athletic disputes of a judicial character, for which no provision was made in the articles of association of an athletic association (see, regulation 14(1)(a)). Regulation of disputes in general—and that includes athletic ones too—is mainly achieved by the establishment of a judicial or quasi-judicial body to take cognizance of such dispute. At the least, the enabling powers of para. (k) put it in the power of K.O.A. to seek the resolution of such disputes through the establishment of a tribunal. In fact, the establishment of A.D.E.A. is, by virtue of reg. 11(1), specifically associated with the exercise of the powers vested in K.O.A. under s.6(2)(k), referred to above and, acknowledging power to impose prescribed punishments. In my judgment, K.O.A. could delegate its authority to A.D.E.A., an athletic tribunal, to take cognizance of disputes, as in this case, between an athletic association, on the one hand and, athletic clubs outside its force, on the other. And, in fact, it validly delegated its authority; hence the power assumed by A.D.E.A. in this case, was perfectly within the limits of their jurisdiction.

In the result, the appeal is allowed and the recourse against the decision of A.D.E.A. is dismissed.

A. Loizou J.: I have had the advantage of reading the judgment of my Brother Justice Stylianides and I agree that the sub judice decision should be annulled on the ground that the Regulation governing this case, namely regulation 14(1)(a) of the Cyprus Sports Organization (General Orders and Disciplinary) Regulations 1970, is to that extent null and void, as being ultra vires the empowering section 19(2)(a) of the Cyprus Athletics' Organization Law, 1969 (Law No. 41 of 1969).

The reasons leading to this conclusion have been admirably explained by him and I have hardly anything to add. I only wish to stress that when statutory enactments intended to set up bodies which through prescribed procedures have competence that may result in sanctions on persons or organizations, such enactments must be clear and unambiguous as regards the extent of their authorisation, more so in the case where such bodies and procedures are set up by virtue of subsidiary legisla-

tion in which case the empowering statutory provision must be likewise clear and leave no roon for doubt as to the extent they authorize the appropriate organ to make regulations to regulate such matters. A review of the legal principles governing the validity of subsidiary legislation vis-a-vis the empowering laws is to be found in *Nicos Stavrou* v. *The Republic* (1976) 3 C.L.R. 66 at pp. 70–72 where reference is made to the cases of *Marangos and Another* v. *Municipal Committee of Famagusta* (1970) 3 C.L.R. 7, and *Spyrou and Others (No. 2)* v. *The Republic* (1973) 3 C.L.R. 627. The position discerned therefrom may be summed up as follows:

When subsidiary legislation is examined as to whether or not it is ultra vires, the answer to this question depends on the true construction of the relevant enabling enactment and if an interference with a fundamental right is involved any doubt about the extent and effect of the relevant enactment has to be resolved in favour of the liberties of the citizen.

SAVVIDES J.: I have had the advantage of reading the judgment of my brother Justice Stylianides and I agree with the conclusion reached by him that the rule making power of the Cyprus Athletics' Organization (K.O.A.) under section 19(2)(a) of Law 41 of 1965 is not an unrestricted one and that K.O.A. could not by regulations confer on A.D.E.A. power to take cognizance and deal with the case in which the sub judice decision was taken. I agree that the part of regulation 14(1)(a) of the Cyprus Sports Organization (General Orders and Disciplinary) Regulations, 1970, material to this case, is null and void as being ultra vires the empowering section 19(2)(a) of the Cyprus Athletics' Organization Law, 1969 (Law No. 41 of 1969).

In the result, the sub judice decision should be annulled.

TRIANTAFYLLIDES P.: I have had the opportunity to study in advance the two main judgments which have just been delivered by Stylianides J. and Pikis J. and I have, indeed, anxiously considered with which one of them I should agree as regards the outcome of these two closely related cases.

I agree with both of them that the crucial issue to be decided is the correct construction of section 18(2)(a)(b)—previously section 19(2)(a)—of the Cyprus Sports Organization Law, 1969 (Law 41/69), as amended, in particular, by the Cyprus Sports

Organization (Amendment) Law, 1972 (Law 22/72), with retrospective effect as from the 13th October 1970.

The said section 18(2)(a)(b) is the enabling provision under which there were published in the Official Gazette of the Republic (No. 832 in its Third Supplement), on the aforementioned date—(13th October 1970)—the Cyprus Sports Organization (General Orders and Discipline) Regulations, 1970; and it is under regulation 14(1)(a) of these Regulations that A.D.E.A. has reached the decision which is challenged by means of the present recourses.

Without deciding that regulation 14(1)(a) as a whole was made without legislative authorization I agree with Stylianides J. that such regulation is ultra vires the enabling provisions of section 18(2)(a)(b) of Law 41/69 in so far, only, as it could be said that it empowered A.D.E.A. to give its sub judice decision, because in my opinion the said section 18(2)(a)(b) does not authorize the conferment, by delegated legislation, on A.D.E.A. of competence to pronounce on the dispute which was determined by its decision in question; and I cannot agree with Pikis J. that such conferment can be deduced from a wide interpretation of section 18(2)(a)(b) or by virtue of the provisions of section 5(2)—previously section 6(2)—of Law 41/69, as amended by Law 22/72.

I, therefore, agree with Stylianides J. that the sub judice decision of A.D.E.A. should be annulled as having been reached without competence and, consequently, I do not have to examine if it is otherwise correct in substance.

TRIANTAFYLLIDES P.: In the result the sub judice decision of A.D.E.A. is annulled by majority, but we shall not make an order as to the costs of these proceedings.

Sub judice decision annulled by majority. No order as to costs.