

1984 September 1

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

THE ADMINISTRATORS OF THE ESTATE
OF ALKIS DEMETRIOU AND OTHERS,

Applicants.

v.

THE MUNICIPAL COMMITTEE OF LARNACA,

Respondent.

(Cases Nos. 43/75, 44/75, 48/75,
49/75, 50/75, 51/75).

*Practice—Recourse for annulment—Motion for relief in—Admi-
nistrative decision rejecting an objection against an earlier admi-
nistrative decision—Might be treated as having been challenged
by the same recourse even though this is not stated expressly in
the motion for relief in the recourse.*

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Following the dismissal of the recourses against the decision
of the respondent to adopt and publish a scheme, under s.12
of Cap. 96, the Court directed that arguments be heard on the
issue of whether or not the recourses could be treated as chal-
lenging also the decision of the Minister of Interior by means
of which there were rejected the objections of the applicants
against the scheme in question which were made to the Minister
of Interior under section 18 of the above Law.

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The recourses were filed after the rejection of the objections
and the contents of the applications in the recourses indicated
strongly that it was intended to challenge, also, the validity of
such decision of the Minister of Interior which was the culmi-
nation of the relevant administrative process notwithstanding
the failure to state this expressly in the motions for relief.

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Held, that an administrative decision by which there was
rejected an objection against an earlier administrative decision,

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might be treated as having been challenged by the same recourse even though this is not stated expressly in the motion for relief in the recourse; and that, accordingly, these cases will be treated as being aimed at, also, the above decision of the Minister.

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Order accordingly.

Cases referred to:

Administrators of the Estate of Alkis Demetriou and Others v. The Municipal Committee of Larnaca (1983) 3 C.L.R. 1315;

Economides v. Republic (1978) 3 C.L.R. 230 at p. 235;

10 *Decisions of the Greek Council of State Nos.: 1846/73, 1847/78 and 1848/73.*

Recourses.

15 Recourses against the decision of the respondent to adopt and publish a scheme for the straightening and widening of Ayia Phaneromeni Avenue at Larnaca and against the rejection, by the Minister of Interior, of the objections of the applicants against the scheme in question.

L. Papaphilippou, for the applicants.

G. Nicolaidis, for the respondents.

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Cur. adv. vult.

25 TRIANTAFYLLIDES P. read the following decision. On the 23rd of August 1983 these six recourses were dismissed in so far as they were made against the decision of the Municipal Committee of Larnaca to adopt and publish a scheme, under section 12 of the Streets and Buildings Regulation Law, Cap. 96, for the straightening and widening of Ayia Phaneromeni Avenue in Larnaca (see *The Administrators of the Estate of Alkis Demetriou and others v. The Municipal Committee of Larnaca*, (1983) 3 C.L.R. 1315).

30 Then, pursuant to directions given when the judgment dismissing these recourses was delivered, arguments of counsel were, in due course, heard on the issue of whether or not these recourses could be treated as challenging also the decision of the Minister of Interior by means of which there were rejected
35 the objections of the applicants against the scheme in question, which were made to the Minister of Interior under section 18

of Cap. 96, as amended by the Streets and Buildings Regulation (Amendment) Law, 1974 (Law 13/74).

Though these recourses were filed on the 14th April 1975, after the said decision of the Minister of Interior on the 25th February 1975, the validity of such decision was not expressly challenged by means of the motions for relief. 5

It is to be noted that when there was published in the daily press, on the 13th October 1974, pursuant to section 12 of Cap. 96, the Notice about the street widening scheme in question it was expressly stated in such Notice that anybody objecting to the scheme could file a recourse against it before the Supreme Court and that, if there had been lodged an objection to the Minister of Interior, his decision, too, could be challenged by means of a recourse to the Supreme Court. 10

As already stated these recourses were filed after the decision of the Minister of Interior by means of which the objections of the applicants against the scheme concerned were rejected and the contents of the Applications in these recourses indicate strongly that it was intended to challenge, also, the validity of such decision of the Minister of Interior which was the culmination of the relevant administrative process notwithstanding the failure to state this expressly in the motions for relief. 15 20

In the judgment of this Court in *Economides v. The Republic*, (1978) 3 C.L.R. 230, 235, it was indicated that an administrative decision, by which there was rejected an objection against an earlier administrative decision, might be treated as having been challenged by the same recourse even though this is not stated expressly in the motion for relief in the recourse. 25

It is useful to refer, too, in this respect to the Decisions of the Council of State in Greece in cases Nos. 1846/1973-1848/1973. 30

In the light of the foregoing I have decided to treat these cases as being aimed at, also, the decision of the Minister of Interior by means of which there were dismissed the objections of the applicants against the scheme in question and to proceed to hear them and determine them accordingly. 35

Order accordingly.