1985 October 23

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

KYRIAKI M. DEMETRIOU AND OTHERS,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE COUNCIL OF MINISTERS,
2. THE MINISTRY OF EDUCATION,
3. THE DIRECTOR OF HIGHER AND HIGHEST EDUCATION,

Respondents.

(Cases Nos. 512/84 and 535/84).

Legitimate interest—Article 146.2 of the Constitution—Modern approach—Applicant should reasonably contend that the act offends his own interest—The attribute of a citizen interested in the keeping of the law or the administration of the public property is no longer considered as sufficient to found a legitimate interest—Applicant does not possess a legitimate interest if the annulment of the act will not benefit him or will harm him—Recourse against the enrolment of the interested parties to PAC as belonging to special categories of persons—Applicants unsuccessful candidates for enrolment in the normal way—As they do not belong to the said special categories they have no legitimate interest except as against two interested parties who also did not belong to such categories.

The European Social Charter (Ratification) Law 64/67—Observations made by the Court.

The number of students for enrolment in the Paedagogical Academy of Cyprus (PAC) for the academic year 1984-1985 was fixed by the Council of Ministers to fifty in the Teacher's section and thirty in the kindergarten's

section. The enrolments were effected on the basis of the results of the examinations. Neither the applicants nor the interested parties were amongst those admitted on the basis of the results of the examinations.

By its decision 24.929 the Council of Ministers decided to accept in PAC nine supernumerary students, i. e. the interested parties, as belonging to the following special categories: (1) Persons suffering from thalassaemia (2) Children of missing persons and (3) Children of enclaved parents. Thus the interested parties were enrolled in the teacher's section of PAC.

These recourses are directed against the decision to admit the interested parties for enrolment in PAC as aforesaid.

Neither of the applicants belonged to any of the above special categories.

Interested parties Messaritou and Nassari did not also belong to any of the said categories. Messaritou was admitted because her uncle is a missing person. Nassari's parents were enclaved until 14.4.1983, when they joined their children in the free areas of the Republic. Nassari was admitted by the sub judice decision in the kindergarten's section of PAC.

Applicant 1 in recourse 512/84 Kyriaki Demetriou had applied for enrolment in the teacher's section only and not the Kindergarten's section of PAC.

Held, (1) As against all interested parties except interested parties Messaritou and Nassari the applicants do not possess a legitimate interest to pursue these recourses because (a) they took part in the examinations and they were not amongst those accepted for enrolment in order of success and, therefore, they cannot be accepted in the normal way, being supernumerous and (b) The supernumerary places were created subsequently to benefit certain classes of persons to which the applicants do not belong. It follows that the applicants cannot possibly benefit from the annulment of the enrolment in PAC of the interested parties in question.

(2) As regards the admission to PAC of interested parties Messaritou and Nassari all applicants as regards Nassari and all applicants except applicant 1 in recourse 512/84 possess legitimate interest because, notwithstanding that the applicants did not belong to the special categories of the supernumerary persons, these two interested parties did not belong to these special categories *(Christodolou v. CYTA* (1973) 3 C.L.R. 695 followed); and therefore, it must be assumed that they were accepted for enrolment on other criteria. The fact that Messaritou scored better marks in the examinations than any of the applicants is immaterial as the supernumerary places in PAC were not filled in the ordinary way, but from special categories to which Messaritou did not belong.

(3) As applicant 1 in recourse 512/84 Kyriaki Spyrou had never applied for enrolment in the Kindergarten's section of PAC and as interested party Nassari was enroled in that section of PAC, Kyriaki Spyrou does not possess a legitimate interest as against interested party Nassari.

(4) The modern approach to the issue of legitimate interest is that the applicant must reasonably contend that the particular act offends his own interest. The attribute of a citizen who is interested in the keeping of the Law and the proper administration of public property is no longer considered as founding a legitimate interest. The application for annulment is unacceptable if it turns against an act the annulment of which will not benefit the applicant or will harm him.

Sub judice decision partly annulled.

Observations by the Court: The admission to Higher Educational Institutes of persons belonging to the categories contemplated by the European Social Charter (Ratification) Law 64/67 should be regulated by law or regulations and equal chances should be given to all persons belonging to such classes.

The admission to PAC of interested parties Messaritou and Nassari has been taken in abuse of power as they did not belong to the three special categories above described.

Cases referred to:

Loucas Savvides v. *The Public Service Commission* (1985) 3 C.L.R. 1749;

Christodoulou v. *CYTA* (1973) 3 C.L.R. 695;

Loizidou v. *The Republic* (1983) 3 C.L.R. 1084;

Decision of the Greek Council of State No. 2314/68.

Recourses.

Recourses against the decision of the respondents to admit for enrolment as students in the Paedagogical Academy of Cyprus the interested parties, as belonging to special categories, in preference and instead of the applicants.

A. S. Angelides, for the applicants.

A. Evangelou, Senior Counsel of the Republic, for the respondents.

E. Efstathiou, for interested parties 1 - 4.

No appearance for the remaining interested parties.

Cur. adv. vult.

SAVVIDES J. read the following judgment. By these two recourses, which have been heard together as presenting common questions of law and fact, the applicants challenge the decision of the respondents to admit for enrolment as students in the Paedagogigal Academy of Cyprus (PAC) the interested parties, namely: 1. Maria Papadopoulou, 2. Natalia Sarri, 3. Ioulia Economidou, 4. Maria Kounnapi, 5. Androulla Nassari. 6. Maria Koulia, 7. Eleni Messaritou 8. Elena Cosma and 9. Eleni Kyriacou, as belonging to special categories, instead of the applicants. Case No. 534/84 has also been heard together with the above two recourses. In the course of considering the cases however, it transpired that there is another additional issue in that case which cannot be dealt with in this judgment as certain clarifications are required and for this reason I have decided to deal with such case separately.

The applicants, as well as the interested parties, took part in the entrance examinations conducted by the Ministry of Education for enrolment in the PAC, which took place in July 1984. The number of students to be enrolled in the PAC for the Academic year 1984 - 1985, had already been fixed by the Council of Ministers to fifty in the Teachers' section and thirty in the kindergarten's section and the enrolments were effected on the basis of the results of the examinations. Neither the applicants nor the interested parties were amongst those admitted for enrolment on the basis of the results of the examinations.

On the 4th September, 1984, a submission was made by the Ministry of Education to the Council of Ministers, based on a claim raised by certain organisations, for the admission of a number of supernumerary students in the PAC, as follows:

1) A claim by the Pancyprian Antianemic Association for the enrolment of 4 females, suffering from Thalassaemia (Μεσογειακή Ἀναιμία), namely, Maria Papadopoulou, Natalia Sarri, Ioulia Economidou and Maria Kounnapi.

2) A claim by the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners of War and Missing Persons for the admission of 2 females, daughters of missing persons, namely, Elena Cosma and Eleni Kyriakou.

3) The Humanitarian Cases Service of the Ministry to the Presidency (Ὑπηρεσία Ἀνθρωπιστικῶν Ὑποθέσεων τοῦ Ὑπουργείου Προεδρίας) for the admission of 2 females, children of enclaved persons, namely Androulla Nassari and Maria Koulia.

The submission ended by recommending the approval of the admission of three supernumerary students, one from each of the above categories, with the highest marks in the examinations.

The Council of Ministers, by its decision No. 24.929, dated 6th September, 1984, decided to accept nine supernumerary students, that is all the eight nominated by the

three organizations mentioned in the submission, plus one, a certain Eleni Messaritou, whose uncle was a missing person, and whose name is not mentioned in the submission.

The said persons, whose names appear in the submission to the Council of Ministers and Eleni Messaritou, were eventually admitted in the PAC for enrolment as students, on the basis of the above decision.

The applicants, filed the present recourses challenging such decision as violating Articles 20, 6 and 28 of the Constitution, as taken in abuse and or excess of power, as violating the principle of equal treatment and the principles of good administration and as being illegal and violating vested rights of the applicants.

The respondents raised a preliminary objection that the applicants did not possess a legitimate interst to pursue their recourses.

Before embarking on this issue I wish to examine the position of the interested parties, that is whether they belong to the special categories of persons for whom the supernumerary places were created.

In this respect I find that interested party Messaritou, whose name did not appear in the submission to the Council of Ministers does not belong to any of the three categories. The reason that she was admitted is, as mentioned in the decision of the Council of Ministers, that her uncle is a missing person. It is obvious, however, from the contents of the submission that the purpose was to benefit daughters of missing persons and not other relatives. As a result I find that this interested party does not belong to the special categories of persons for whom the supernumerary places were created.

There is also another interested party, namely, Androulla Nassari, who was recommended for enrolment by the Humanitarian Cases Service as belonging to the group of persons whose parents were enclaved. It is, however, stated in the submission that her parents were enclaved until the 14th April, 1983, when they joined their children in

the free areas of the Republic. Therefore, at the material time she did not fall within the special category of persons whose parents were enclaved.

Having explained the position of the interested parties with regard to the special categories mentioned in the submission to the Council of Ministers, I come now to consider the issue of legitimate interest. I shall deal first with those of the interested parties who belong to the special categories mentioned in the decision of the Council of Ministers and I shall consider next the position of the rest.

It was submitted by counsel for the respondents that the applicants, not being members of any of the categories for which the supernumerary places were created, do not possess any legitimate interest, especially in view of the fact that they cannot benefit from the annulment of the sub judice decision.

Counsel for the applicants submitted that the fact that the applicants took part in the entrance examinations and had a claim for enrolment in the PAC was enough to vest them with legitimate interest, making reference in this respect to case No. 2314/1968 of the Greek Council of State and also to other authorities.

In Greece, at a time, there was a tendency to give a wider latitude to the notion of legitimate interest as far as the moral part of it is concerned, which however was later abandoned. As stated in Dactoglou, "General Administrative Law" Vol. C1 pp. 259, 260:

«... Την άποκορύφωση της διευρυντικής αύτης τάσεως αποτελεί ίσως ή απόφαση πού άναγνώρισε σέ κάθε όρθόδοξο χριστιανό ένορίτη της Μητροπόλεως Άθηνών τό έννομο ήθικό συμφέρον νά προσβάλει την έκλογή Άρχιεπισκόπου Άθηνών. Άλλά ή τελευταία αύτή νομολογία έγκαταλείφθηκε ύστερα άπό λίγα χρόνια καί ή ιδιότητα τού πολίτη, πού ένδιαφέρεται γιά τήν τήρηση τού νόμου καί τήν όρθή διαχείριση της περιουσίας τού δημοσίου, δέν θεωρήθηκε πλέον ότι θεμελιώνει έννομο συμφέρον.»

The English translation of which reads:

(... The peak of this widening tendency is perhaps the decision which recognised for every christian orthodox parisher of the metropolis of Athens the moral legitimate interest to challenge the election of the Archbishop of Athens. But this last case law has been abandoned after a few years and the attribute of a citizen who is interested in the keeping of the law and the proper administration of public property was no longer considered as founding a legitimate interest.)

Also at pages 226 - 227 of the same book it is stated that:

«"Αν κύριος σκοπὸς τῆς διοικητικῆς δικαιοσύνης δὲν ἦταν ἡ προστασία τοῦ ἰδιώτη, ἀλλὰ ἡ διαφύλαξη τῆς νομιμότητας τῆς διοικήσεως (ὅπως γινόταν παλαιότερα δεκτό), τότε κάθε πολίτης θὰ εἶχε τὸ δικαίωμα ἢ καὶ τὴν (ἠθικὴ τουλάχιστον) ὑποχρέωση νὰ προσβάλει στὰ δικαστήρια κάθε παράνομη συμπεριφορὰ τῆς διοικήσεως. "Οπως ὅμως παρατηρήθηκε ἤδη, ὁ νομοθέτης στὴ χώρα μας ὅπως καὶ ἀλλοῦ, ἀπέκλεισε τὴ 'λαϊκὴ ἀγωγὴ' (actio popularis), φρονώντας ὅτι θὰ ὁδηγοῦσε στὴν ὑπερφόρτωση καί, τελικά, παράλυση τῆς διοικητικῆς δικαιοσύνης. .....

. . . . . .

Γιὰ νὰ γίνει λοιπὸν παραδεκτὴ μιὰ αἴτηση ἀκυρώσεως ἢ μιὰ προσφυγὴ δὲν ἀρκεῖ νὰ ἰσχυρισθεῖ ὁ αἰτῶν ὅτι ἡ προσβαλλομένη πράξη θίγει τὸ γενικό, δημόσιο, κοινὸ κλπ. συμφέρον, ἀλλὰ πρέπει νὰ ἰσχυρισθεῖ εὐλόγως ὅτι ἡ πράξη αὐτὴ θίγει δικό του συμφέρον».

The English translation of which is:

(If the main object of administrative justice was not the protection of the individual, but the keeping of the legality of the administration (as was accepted before), then every citizen would have had the right and or (the moral, at least) duty to challenge in the courts every unlawful conduct of the administration. But, as it has already been observed, the legislator in our country as well as elsewhere, has excluded the popular

action (actio popularis), considering that it would have led to the overburdening and, finally, the paralysis of the administrative justice.

. . . . . .

. . . . . .

So, therefore, for an application for annulment or for a recourse to become acceptable, it is not enough for the applicant to contend that the act challenged offends the general, public, common etc. interest, but he must reasonably contend that the particular act offends his own interest).

As to the modern trend concerning the notion of legitimate interest we also read in the Conclusions from the Case Law of the Greek Council of State (1929 - 1959) at p. 258 paragraph B 'b' the following:-

«.... Οὕτω δὲν νομιμοποιεῖται τις πρὸς προσβολὴν πράξεως, ὁσάκις αὕτη ἀντίκειται ἁπλῶς εἰς τὸ συμφέρον τῆς ὑπηρεσίας ἢ εἰς τὰς διεπούσας τὴν ὀργάνωσιν αὐτῆς διατάξεις χωρὶς νὰ θίγηται συγκεκριμένον συμφέρον τοῦ αἰτοῦντος προσωπικῶς: 1179(48). Ἐλλείψει συμφέροντος προσωπικοῦ ἢ συγκεκριμένου ἡ αἴτησις ἀκυρώσεως καθίσταται ἀπαράδεκτος.»

The English translation of which is:

(.... Thus, no person has a legitimate interesst to challenge an act if such act is simply contrary to the interest of the service or the provisions regulating its organisation, without a specific interest of the applicant personally being affected: 1179/48. In the absence of an interest personal or specific, the application for annulment becomes unacceptable).

Also at page 260 paragraph (e) of the same book, it is stated that:

«... Κατ' ἄλλην διατύπωσιν, ἡ αἴτησις ἀκυρώσεως θεωρεῖται ἀπαράδεκτος ἐλλείψει συμφέροντος, ὁσάκις αὕτη στρέφεται κατὰ πράξεως ἧς ἡ ἀκύρωσις δὲν θὰ ὠφελήσῃ τὸν αἰτοῦντα ἢ θὰ βλάψῃ αὐτόν.»

The English translation of which is:

> (.... In some other expression, the application for annulment is considered unacceptable for lack of legitimate interest, if it turns against an act the annulment of which will not benefit the applicant or will harm him).

See also Dactoglou, "General Administrative Law" Vol. C 1, p. 228, paragraph 4. Our Court has adopted this line of approach in the case of *Loucas Savvides* v. *The Public Service Commission* (1985) 3 C.L.R. 1749.

The applicants in the present case took part in the entrance examinations but were not amongst those accepted for enrolment in the order of success. It is, therefore, obvious that the applicants could not be enrolled in the PAC in the normal way, being supernumerous to the number already fixed by the Council of Ministers.

The supernumerary places were created subsequently in order to benefit certain classes of persons to which the applicants do not belong and as a result they will not benefit from a possible annulment of the sub judice decision, since they cannot be enrolled in the PAC instead of the interested parties.

With regard to case No. 2314/1968 of the Greek Council of State, to which counsel for applicant referred, it is differentiated from the present one in that the applicant there claimed to belong to the same group of persons for whom the supernumerary places were created, and, therefore, she was deemed as possessing a legitimate interest.

I, therefore, find on the basis of the above, that the applicants do not possess a legitimate interest to pursue this recourse against interested parties Maria Papadopoulou, Natalia Sarri, Ioulia Economidou, Maria Kounnapi, Elena Cosma, Eleni Kyriacou and Maria Koulia.

Concerning the interested parties Eleni Messaritou and Androulla Nassari, as I have already found, they do not belong to the special categories of candidates for whom the supernumerary places were created.

It has been held in the case of *Christodoulou* v. *CYTA*

(1973) 3 C.L.R. 695, that the applicant who did not possess the qualifications required for promotion had a legitimate interest to challenge the promotion of a colleague of hers, who, also, did not possess the said qualifications. Although that case was decided on its own very special circumstances it may be of some useful guidance in the present case.

In the present case the enrolment of the two interested parties must be assumed to have been made on other criteria, outside the scope of the submission and the decision of the Council of Ministers. Therefore, the applicants who, also, did not belong to the special categories, possess a legitimate interest vis a vis these two interested parties.

Before concluding on the point of legitimate interest, there is another question which I have to resolve, that is, the question of the legitimate interest of Kyriaki Demetriou, applicant No. 1 in Case No. 512/84. As I have been informed by counsel, this applicant had applied for enrolment in the teachers' section only and not the Kindergarten's section of PAC, while interested party Nassari has been accepted in the kindergarten's section of PAC. It is, therefore, obvious that this applicant does not possess a legitimate interest vis a vis this interested party either and, therefore, her recourse against such party fails.

I am coming next to consider the position of all applicants vis a vis Eleni Messaritou and of all applicants except Kyriaki Demetriou vis a vis Androulla Nassari.

With regard to interested party Messaritou, it has been submitted by counsel for the respondents that the recourse of the applicants cannot succeed as far as her enrolment is concerned because she had scored more marks in the examinations than any of the applicants. I find myself unable to agree with such submission. It is not a matter as to who got better marks since the supernumerary places were to be filled from special categories and not in the ordinary manner. Irrespective of whether or not the decision of the Council of Ministers concerning the supernumerary places was lawfully taken, a matter which I am not going to examine at the present stage, once this interested party did

not belong to any of the categories which the said decision intended to benefit, the part of the sub judice decision concerning her enrolment is unlawful and in excess and abuse of power (assuming that such power did exist) and must, therefore, be annulled.

The same considerations apply in the case of the other interested party, Androulla Nassari. Although she was placed and classified in the submission under the category of persons whose parents are enclaved, it is clearly stated therein that her parents had come to the free area, in April, 1983, that is long before the sub judice decision was taken, which was in September, 1984. Besides, although immaterial as stated earlier, this interested party had scored less marks than any of the applicants. Therefore, the part of the sub judice decision concerning the enrolment of this interested party must, also be annulled, for the reasons stated above.

Although this disposes of the recourses, I wish to make certain observations in these cases.

As I have pointed out in *Loizidou* v. *The Republic* (1983) 3 C.L.R. 1084 at p. 1090 in Greece the matter of admission to the Teachers' Training Academies is regulated by law. It also emanates from the decision of the Greek Council of State in Case 2314/68 that admission on the basis of special criteria is also regulated by law (though the constitutionality of such law has been questioned in that case). In Cyprus there is no law or regulation providing for such matters and the Council of Ministers vested itself with the power of taking decisions on these matters. In the course of argument in the present recourses reference has been made to the provision of the European Social Charter (Ratification) Law, 1967 (Law 64/67) and in particular sections 10 and 15.

Section 10 provides as follows:

«"Αρθρον 10: Δικαίωμα δι' επαγγελματικήν μετεκπαίδευσιν. Πρὸς τὸν σκοπὸν ὅπως ἐξασφαλισθῇ ἡ πραγματικὴ ἄσκησις τοῦ δικαιώματος δι' ἐπαγγελματικήν μετεκπαίδευσιν, τὰ Συμβαλλόμενα Μέρη ἀναλαμβάνουν τὴν ὑποχρέωσιν:

(1) ὅπως ἐξασφαλισθῇ ἤ, ἀναλόγως τῶν περιπτώ-

σεων, διευκολυνθῇ ἡ τεχνικὴ καὶ ἐπαγγελματικὴ ἐκπαίδευσις ἁπάντων τῶν προσώπων, συμπεριλαμβανομένων καὶ τῶν σωματικῶς ἢ ἠθικῶς ὑστερούντων, ἀπὸ συμφώνου μετὰ τῶν ἐπαγγελματικῶν ὀργανώσεων ἐργοδοτῶν καὶ ἐργαζομένων, καθὼς καὶ ὅπως χορηγοῦνται τὰ μέσα ἅτινα θὰ ἐπιτρέπουν τὴν εἴσοδον εἰς τὴν ἀνωτέραν τεχνικὴν ἐκπαίδευσιν καθὼς καὶ εἰς τὴν πανεπιστημιακὴν τοιαύτην μὲ μόνον κριτήριον τὰ ἀτομικὰ προσόντα.»

The English translation of which is:

(For the purpose of securing the actual exercise of the right for vocational training, the Contracting Parties undertake the responsibility:

(1) to secure or, depending on the circumstances, facilitate the technical and vocational training of all persons, including those physically or mentally deficient, by agreement with the professional organisations of employers and working persons, as well as to provide the means which would allow entrance in the higher technical and university education with the only criterion the individual qualifications).

and section 15:

«Ἄρθρον 15: Δικαίωμα τῶν σωματικῶς ἢ διανοητικῶς ὑστερούντων προσώπων νὰ τύχουν ἐπαγγελματικῆς ἐκπαιδεύσεως καὶ ἐπαγγελματικῆς καὶ κοινωνικῆς ἀναπροσαρμογῆς.

Πρὸς τὸν σκοπὸν ὅπως ἐξασφαλισθῇ ἡ πραγματικὴ ἄσκησις τοῦ δικαιώματος τῶν σωματικῶς ἢ διανοητικῶς ὑστερούντων προσώπων νὰ τύχουν ἐπαγγελματικῆς ἐκπαιδεύσεως καὶ ἐπαγγελματικῆς καὶ κοινωνικῆς ἀναπροσαρμογῆς, τὰ Συμβαλλόμενα Μέρη ἀναλαμβάνουν τὴν ὑποχρέωσιν:

(1) ὅπως λάβουν τὰ κατάλληλα μέτρα ἵνα τεθοῦν εἰς τὴν διάθεσιν τῶν ἐνδιαφερομένων τὰ μέσα ἐπαγγελματικῆς ἐκπαιδεύσεως, ἐὰν δὲ παραστῇ ἀνάγκη, τὰ μέτρα ταῦτα θὰ περιλαμβάνουν καὶ εἰδικὰ ἱδρύματα, εἴτε δημόσια εἴτε ἰδιωτικά·

(2) ὅπως λάβουν τὰ ἐνδεδειγμένα μέτρα πρὸς ἐξεύρεσιν ἀπασχολήσεως διὰ τὰ σωματικῶς ὑστεροῦντα πρόσωπα καὶ ἰδίᾳ μέσῳ εἰδικῶν ὑπηρεσιῶν εὑρέσεως ἐργασίας, ὅπως παράσχουν δυνατότητας προστατευομένης ἀπασχολήσεως καὶ λάβουν τὰ κατάλληλα μέτρα πρὸς προτροπὴν τῶν ἐργοδοτῶν ὅπως προσλαμβάνουν σωματικῶς ὑστεροῦντα πρόσωπα.»

The English translation reads:

(Section 15: The right of physically or mentally deficient persons to have professional training and professional and social rehabilitation.

For the purpose of securing the actual exercise of the right of physically or mentally deficient persons to have professional training and professional and social rehabilitation, the Contracting Parties undertake the responsibility:

(1) to take suitable steps so as to place at the disposal of those interested the means for professional training, and if necessary, those steps will include special institutions, either public or private.

(2) to take proper steps to find employment for physically deficient persons, and especially through special services for finding employment, to provide possibilities for protected employment and take suitable measures urging employers to engage physically deficient persons.)

There is no doubt that by the ratification of the European Social Charter a duty is imposed upon the contracting States to take steps for the implementation of such provisions. Concerning however the admission to Higher Educational Institutes of persons belonging to the categories contemplated by the Charter it should be regulated by law or regulations and equal chances should be given to all persons, belonging to such classes. The arbitrary selection of specific persons on the basis of special criteria without affording a similar chance to all other persons satisfying the same criteria is not in accordance with the principles

of good administration and it makes it impossible for the Court to exercise control on such selection.

In the result recourse No. 512/84 succeeds, with regard to applicant 1, Kyriaki Demetriou, against interested party Messaritou alone, and fails against all other interested parties. The claims of applicants Nos. 2 and 3 in the same recourse, that is Laoura Costa and Sophia Joannou, succeed against interested parties Messaritou and Nassari and fail against all other interested parties.

Similarly, recourse No. 535/84 of applicant Andriani Constantinou succeeds against interested parties Messaritou and Nassari and fails against the remaining interested parties.

In the result a declaration is made annulling the sub judice decision to the extent mentioned hereinabove. No order for costs.

Sub judice decision annulled to the extent mentioned above. No order as to costs.