

1984 January 13

[TRIANTAFYLLIDES, P., HADJIANASTASSIOU, A. LOIZOU,
MALACHTOS, SAVVIDES, LORIS, STYLIANIDES, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTRY OF EDUCATION,

Appellant,

v.

IVI NISSIOTOU,

Respondent.

(Revisional Jurisdiction Appeal No. 336).

5 *Practice—Recourse under Article 146 of the Constitution or
revisional jurisdiction appeal—Interested party may be
heard in opposition, but not in support of the annulment
of an administrative decision which relates to him and
which is the subject-matter of the recourse or appeal.*

10 C. Carayiannis, a headmaster, whose transfer from the
Strovolos “A” Gymnasium, in Nicosia, to the Acropolis
“B” Gymnasium, in Nicosia, was annulled by virtue of the
judgment of a Judge of this Court, which was delivered
in determining in the first instance a recourse under Arti-
cle 146 of the Constitution, of the respondent to this ap-
peal, and which is being challenged by means of such
appeal, has applied for leave to be heard in support of
the annulment of his transfer.

15 *Held*, that a third party cannot be allowed to seek the
annulment of an administrative decision relating to him by
intervening in a recourse made by somebody else against
such decision, but must make, if he wishes, a recourse of
his own against it; that, therefore, an interested party may
20 only be heard in proceedings in a recourse under Article
146 or in a revisional jurisdiction appeal, in opposition,
but not also in support, of the annulment of an admini-
strative decision which relates to him and which is the
subject-matter of the recourse or appeal; and that, conse-
25 quently, the application of interested party Carayiannis for

leave to be heard in support of the annulment of his transfer must fail.

Application dismissed.

Cases referred to:

Theodorides v. Ploussiou (1976) 3 C.L.R. 319 at pp. 5
330, 331.

Application.

Application by interested party Constantinos Carayiannis for leave to be heard in support of the annulment of his transfer from Strovolos "A" Gymnasium to Acropolis "B" Gymnasium in an appeal against the judgment of a Judge of the Supreme Court (Pikis, J.) given on the 14th October, 1983 (Revisional Jurisdiction Case No. 311/83)* whereby the transfers of the interested party and the applicant in the recourse were annulled. 10
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A. *Evangelou*, Senior Counsel of the Republic with R. *Vrahimi (Mrs.)*, for the appellant.

A. S. *Angelides*, for the respondent.

L. *Papaphilippou* with Ph. *Valiantis*, for interested party C. Carayiannis. 20

Cur. adv. vult.

TRIANAFYLLIDES P. read the following decision of the Court. C. Carayiannis, a Headmaster, whose transfer from the Strovolos "A" Gymnasium, in Nicosia, to the Acropolis "B" Gymnasium, in Nicosia, was annulled by virtue of the judgment of a Judge of this Court, which was delivered in determining in the first instance a recourse (311/83), under Article 146 of the Constitution, of the respondent to this appeal, and which is being challenged by means of such appeal, has applied for leave to be heard in support of the annulment of his transfer. 25
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In Cyprus there has been developed a practice of allowing a person to whom an administrative decision relates to take part, as an interested party, in the proceedings in

* Reported in (1983) 3 C.L.R. 974.

a recourse made by somebody else against such decision (see, in this respect, inter alia, *Theodorides v. Ploussiou*, (1976) 3 C.L.R. 319, 330, 331). This practice is in line with the notion of "intervention" in similar proceedings in Greece, which is explained by Stasinopoulos in his textbook on the Law of Administrative Disputes (Στασινοπούλου, *Δίκαιον των Διοικητικών Διαφορών*), 4th ed., pp. 244, 245.

In Greece intervention by an affected third party in the proceedings in a recourse before the Council of State is regulated by statutory provisions—(see section 48 of Law 3713/1928, as amended by section 17 of Decree 3830/1958, and section 49 of Decree 170/1973)—in such a manner that a third party may intervene only to oppose, but not also to support, the applied for annulment of an administrative decision relating to him.

The statutory, as aforesaid, regulation of the right of intervention in Greece is based on the principle (see Stasinopoulos, *supra*) that a third party cannot be allowed to seek annulment of an administrative decision relating to him by intervening in a recourse made by somebody else against such decision, but must make, if he wishes, a recourse of his own against it.

We do think that the said principle is, indeed, sound and should guide us too in regulating, by means of directions, under inter alia rule 19 of the Supreme Constitutional Court Rules of Court, the rights of interested parties in recourses under Article 146 of the Constitution and in revisional jurisdiction appeals, such as the present one.

If in this appeal we allow counsel for the interested party to be heard in support of the annulment of the decision to transfer him this would, in effect, amount to allowing him to pursue a recourse against his transfer through the recourse of another against such transfer, namely through the aforesaid recourse (311/83) of the respondent to this appeal.

In the light of all the foregoing we are of the view that, in accordance with the relevant principle to which we have already referred, an interested party may only be heard,

in proceedings in a recourse under Article 146 or in a revisional jurisdiction appeal, in opposition, but not also in support, of the annulment of an administrative decision which relates to him and which is the subject-matter of the recourse or appeal. 5

Consequently, we have decided not to accede to the application of counsel for interested party Carayiannis for leave to be heard in support of the annulment of the transfer of his client.

We note, too, that the said interested party has a recourse of his own pending against his transfer and that such recourse (371/83) has, on the initiative of his counsel, been adjourned sine die pending the outcome of the recourse of the respondent to this appeal. 10

Order accordingly. 15