

(1988)

1988 November 2

[HADJITSANGARIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

YIANNIS ANDREOU,

*Applicant,*

v.

THE REPUBLIC OF CYPRUS, THROUGH

1. THE DIRECTOR OF THE REGISTRATION SERVICE  
AND REHABILITATION OF DISPLACED PERSONS,
2. THE ATTORNEY-GENERAL OF THE REPUBLIC,

*Respondents.*

*(Case No. 1056/85).*

*Executory act—Confirmatory act—An act confirmatory of an earlier executory act cannot be challenged by a recourse for annulment—Administration took the view that new material submitted by applicant did not justify re-examination of earlier decision—The recourse, which was not directed against the refusal to re-examine, has to be dismissed.*

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The facts of this case appear sufficiently from the judgment of the Court.

*Recourse dismissed.*

*No order as to costs.*

*Cases referred to:*

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*Larkos v. The Republic (1983) 3 C.L.R. 1160.*

**Recourse.**

Recourse against the refusal of the respondents to renew appli-

cant's refugee card.

A. Paikkos, for the applicant.

A. Vassiliades, for the respondents.

*Cur. adv. vult.*

5 HADJITSANGARIS J. read the following judgment. By the present recourse the applicant prays:

(1) For a declaration of the Court that the refusal of the respondents of a refugee card to him is null and void and;

10 (2) For a declaration of the Court that the refusal of the respondents to renew his refugee card contained in letters dated 11.6.85 and 19.11.85 is null and void.

15 More specifically the applicant claims that the sub-judice decision was taken on 11.6.85 and 19.11.85 and is based upon a misconception of facts and it is not justified by the facts before the administration.

20 The respondents raised a preliminary objection to the effect that the applicant is time barred as regards his recourse in relation to the decision taken on 11.6.85 confirming an earlier decision of 4.4.85 and that the decision taken on the 19.11.85 was merely confirmatory of the earlier decisions.

25 Shortly the facts of this case are that the applicant, who is a Maronite from Asomatos village which was occupied by the Turks after the invasion of 1974, alleges that until 1974 he resided and worked at Asomatos village with his mother and sisters at her house. After the occupation of his village they all went to Limassol and thereafter to Nicosia. The applicant then went to Greece from where he returned in 1976 setting up business in Nicosia. In 1974 a refugee card was issued to his mother which included the applicant and his sisters. The applicant himself ob-

tained a refugee card which the respondents refused to renew by a letter dated 4.4.85 on the ground that his usual place of residence before the invasion was not within the Turkish occupied areas but was within Nicosia town.

By a letter of his advocate dated 3.5.85 the applicant applied for a reconsideration of his application setting out a number of facts on which he relied. Following an investigation the respondent 1 replied to the applicant by the letter of the 11.6.85 rejecting his application once more. 5

The decisions of the respondents contained in the letters dated 4.4.85 and 11.6.85 were never made the subject of a recourse under article 146 of the Constitution within the specified limits. The applicant reapplied by a letter of his advocate dated 29.8.85 asking for a reconsideration of his request and enclosing four statements in support of his allegations regarding his place of residence before 1974. 10 15

To this letter the respondent 1 replied by the letter of 19.11.85 to the effect that there was nothing to be added to the letter of 11.6.85. As it appears from the file of the case, respondent 1 took the view that the new matters put forward before them did not justify a re-examination of the applicant's request. 20

It is beyond dispute that only executory acts or decisions can be the subject of a recourse and that acts or decisions which are merely confirmatory of earlier decisions cannot be so. *Larkos v. Republic* (1983) 3 C.L.R. 1160 where at page 1163, Triantafylides P. had this to say: 25

"The view that only executory acts or decisions, and not, also, confirmatory acts or decisions, can be challenged by means of a recourse under Article 146 of the Constitution has been adopted and reiterated repeatedly in our case-law and recently, too, in inter alia, *Ioannou v. The Republic*, (1982) 3 C.L.R. 1002, 1008, 1009, *Georghiou v. The Republic*, (1982) 3 C.L.R. 828, 836, *Mylonas v. The Educational Ser-* 30

*vice Committee*, (1982) 3 C.L.R. 880, 887."

It was on this principle that learned counsel of the respondents rested his preliminary objection and the answer to it depends on the examination of the basis of the recourse.

5        In my opinion it is quite clear that the executory decision of respondent 1 was contained in their letter dated 4.4.85 and following an examination of the request of the applicant that was contained in the letter of the respondents dated 11.6.85. The decision of the 19.11.85 was merely confirmatory of the earlier decisions  
10        and did not involve any re-examination of the matter.

It has to be noted that the present recourse does not complain of a refusal of the respondents to re-examine the matter in the light of new evidence but it is directed against the original refusal of the respondents 1 to renew the refugee card of the applicant.

15        This clearly disposes of the recourse which is doomed to failure. In the light of the above I do not propose to go into the merits of the case.

In the result this recourse fails and is dismissed but in the circumstances I make no order as to costs.

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*Recourse dismissed.*  
*No order as to costs.*