Subject-matter concerned	☐ 1) non-discrimination on grounds of nationality ✓2) freedom of movement and residence - linked to articles 27, 28, 30 and 32 of the Directive 2004/38 ☐ 3) voting rights ☐ 4) diplomatic protection ☐ 5) the right to petition
Decision date	17 July 2015
Deciding body (in original language)	Ανώτατο Δικαστήριο Κύπρου, Αναθεωρητική Δικαιοδοσία
Deciding body (in English)	Supreme Court of Cyprus, Review Jurisdiction
Case number (also European Case Law Identifier (ECLI) where applicable)	8/2013
Parties	Angelov Planimir Stanchev v. The Republic of Cyprus through the Ministry of the Interior and the Department of population archives and immigration [Angelov Planimir Stanchev v. Κυπριακής Δημοκρατίας μέσω του Υπουργού Εσωτερικών και του Τμήματος Αρχείου Πληθυσμού και Μετανάστευσης]

Web link to the decision (if available)	http://cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_4/2015/4-201507-8-13_4.htm&qstring=2004%20w%2F1%2038%20w%2F1%20%E5%EA
Legal basis in national law of the rights under dispute	• Article 146 of the Cypriot Constitution[1] which provides for the right to apply for judicial review of an administrative act; • Articles 29, 30, 32 and 34 of Law N.7(I)/2007[2] transposing the Free Movement Directive which corresponds to Directive articles 27, 28, 30 and 36 respectively.
Key facts of the case (max. 500 chars)	The applicant was a Bulgarian national who came to Cyprus in 2009 and obtained a registration certificate. In 2012 he was found working as a guard outside a casino without license, upon which he was arrested and charged. On the following day the police again located the applicant working as a guard at the same casino; he was arrested again and charged. He was found working at the same casino twice again at subsequent dates a few weeks later. The police claimed that, at one of their visits to the casino the applicant had warned the casino staff about the arrival of the police whilst at the last visit he prevented the police from entering the casino. Three months later the immigration authorities issued orders of detention and deportation against him on the ground that his conduct rendered him a genuine, present and sufficiently serious threat. In addition to the events described above, the authorities cited their allegation that the applicant 'appeared to belong' to a group involved in organized crime. The applicant filed an ex parte application to the Court for an order to suspend the execution of the detention and deportation order which was successful. Following that he left Cyprus voluntarily for personal reasons. Because he had meanwhile been declared to be a prohibited migrant under the national immigration law,[3] the authorities lodged his name in the Stop List, prohibiting him from entering Cyprus for the next ten years. The applicant challenged this decision on a number of grounds including error

[1] Cyprus, The Constitution of the Republic of Cyprus, available at http://cylaw.org/nomoi/enop/ind/syntagma/section-sc26b4a5c6-5493-b01e-9d76-560d2e45d284.html accessed on 20 April 2017.

[2] Cyprus, Law on the right of citizens of the Union and their family members to move and reside freely in the Republic (Ο περί του Δικαιώματος των Πολιτών της Ένωσης και των Μελών των Οικογενειών τους να Κυκλοφορούν και να Διαμένουν Ελεύθερα στη Δημοκρατία Νόμος του 2007) Ν. 7(Ι)/2007, available at http://cylaw.org/nomoi/enop/non-ind/2007_1_7/index.html

[3] Cyprus, Aliens and immigration law (*Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος*), Cap 105, article 6 (1)(g), available at http://cylaw.org/nomoi/enop/non-ind/0_105/full.html, accessed on 20 April 2017.

	of fact as regards his links with Cyprus, the failure to adequately investigate and the infringement of articles 29, 30, 32 and 34 of the law transposing the Directive 2004/38/EC[4] which correspond to Directive articles 27, 28, 30 and 36 respectively.
Main reasoning / argumentation (max. 500 chars)	The administrative act which the applicant seeks to challenge in this case is merely assertive and informative of a previous administrative act which had declared him to be a prohibited immigrant under the national immigration law.[5] It is on the basis of that decision that his re-entry into Cyprus was prohibited. There was no new fact or evidence submitted in order to render the entry ban a fresh executory act so that it can be challenged through judicial review. The applicant had lost his legitimate interest to challenge the administrative acts which resulted from having been declared to be a prohibited immigrant because through his voluntary departure he has essentially accepted these acts.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Article 34 of Law N.7(I)/2007 (corresponding to Directive article 32) does not place a ceiling to the duration of the re-entry ban. It merely gives the right to the excluded person to apply for the lifting of the ban due to new data that materially change the circumstances which justified the exclusion decision. Placing a person's name in the Stop List is not an executory act and therefore cannot be challenged through judicial review.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The application for judicial review was rejected and the 10-year entry ban against the applicant was confirmed. The applicant was ordered to pay the respondents' costs.
	Our comment on this case
	The Court essentially applied national immigration law and the wide deportation powers which this grants to the Chief Immigration Officer,[6] rather than check the compatibility of the administrative actions with the free movement acquis, contrary to the decision in *Mendonca*

[4] Cyprus, Law on the right of citizens of the Union and their family members to move and reside freely in the Republic (Ο περί του Δικαιώματος των Πολιτών της Ένωσης και των Μελών των Οικογενειών τους να Κυκλοφορούν και να Διαμένουν Ελεύθερα στη Δημοκρατία Νόμος του 2007) Ν. 7(Ι)/2007, available at http://cylaw.org/nomoi/enop/non-ind/2007_1_7/index.html accessed on 23 April 2017.

[5] Cyprus, Aliens and immigration law (*Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος*), Cap 105, article 6 (1)(g), available at http://cylaw.org/nomoi/enop/non-ind/0_105/full.html, accessed on 20 April 2017.

[6] Cyprus, Aliens and immigration law (*Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος*), Cap 105, article 6 (1)(g), available at http://cylaw.org/nomoi/enop/non-ind/0_105/full.html, accessed on 20 April 2017.

	(reported above) which was delivered 8 months earlier. The ruling that the applicant had lost his legitimate claim to challenge the administrative act because of having been deemed to have previously accepted this act, relied on legal precedent from 1990 (before the transposition of the free movement acquis) on a case concerning the imposition of import duties. The Judge did not examine the applicant's claim of violation of his rights under the law transposing Directive 2004/38.
Key quotations in original language and translated into English with reference details (max. 500 chars)	Κατά τις διευκρινίσεις, όπως ήδη λέχθηκε, η ευπαίδευτη συνήγορος των καθ΄ ων πληροφόρησε το Δικαστήριο για την έκδοση απορριπτικής απόφασης στην προσφυγή υπ΄ αρ. 1430/2012 στις 28.1.2015. Η προσφυγή αυτή στρέφετο εναντίον των διαταγμάτων κράτησης και απέλασης ημερ. 9.9.2012 και εκεί ηγέρθησαν παρόμοιοι λόγοι ακύρωσης ως προς την ουσία της κήρυξης του αιτητή σε απαγορευμένο μετανάστη, όπως και στην παρούσα προσφυγή. Το Ανώτατο Δικαστήριο με την απόφαση του αποδέχθηκε προδικαστική ένσταση ως προς την απώλεια του αντικειμένου της προσφυγής λόγω της ακύρωσης των επιδίκων διαταγμάτων και της οικειοθελούς αναχώρησης του αιτητή. Το Δικαστήριο έκρινε ότι ο αιτητής απώλεσε το έννομο συμφέρον του να προσβάλει πράξη, το περιεχόμενο της οποίας, έστω και εκ των υστέρων, οικειοθελώς αποδέχθηκε στη βάση σχετικής νομολογίας, με αναφορά στην ***Κοζάκος ν. Δημοκρατίας*** (1990) 3 Α.Α.Δ. 3566 και των εκεί μνημονευθεισών αποφάσεων. Έκρινε επίσης ότι δεν παρέμειναν ζημιογόνα αποτελέσματα ως εκ της ακύρωσης των διαταγμάτων ώστε να καταστεί δυνατή η αναχώρηση του αιτητή στην πατρίδα του, δεδομένου ότι η πρωταρχική κήρυξη του ως απαγορευμένου μετανάστη ανήκε στη διακριτική ευχέρεια της διοίκησης, η οποία είναι ευρύτατη και άρρηκτα συνυφασμένη με την κρατική υπόσταση, (***Moyo v. Republic*** (1988) 3 C.L.R. 1203 και ***Eddine v. Δημοκρατίας*** (2008) 3 Α.Α.Δ. 95). Η πιο πάνω απόφαση προσθέτει στα αιτιολογικά της απόρριψης της παρούσας προσφυγής εφόσον και εδώ ο αιτητής έχει παύσει να διατηρεί έννομο συμφέρον στην προώθηση της προσφυγής του, ιδιαιτέρως εφόσον η υπό κρίση προσβαλλόμενη πράξη είναι ακόλουθη της ουσιαστικής πράξης κήρυξης του αιτητή ως απαγορευμένου μετανάστη, την οποία έχει αποδεχθεί ο αιτητής με την οικειοθελή αναχώρηση του από τη Δημοκρατία. [Unofficial translation below] As already stated, according to the clarifications, the learned counsel for the defendants informed the Court of Justice of the rejection of application no. 1430/2012 on 28.1.2015. This appeal was directed against the detention and deportation orders dated 9.9.2012 where similar grounds came up for annulment as to the substance of the applicant's declaration as a prohibited immigrant, as in the present case. In its judgment, the Supreme Court accepted a preliminary ruling on the loss of the subject-matter of the action as a result of the annulment of the disputed orders and the voluntary departure of the applicant. The Court held that the applicant had lost his legitimate interest in challenging an act the content of which, albeit ex post, he had voluntarily accepted, on the basis of relevant legal precedent, with reference to *Kozakos v. the Republic* (1990) 3 AAD 3566 and the judgments cited therein. It also ruled that no damaging effects remained as a result of the annulment of the orders so as to enable the applicant to depart for his home country, since his primary proclamation as a prohibited

	immigrant was at the discretion of the administration, which is very broad and inseparable from state sovereignty (*Moyo v. Republic* (1988) 3 CLR 1203; *Eddine v. Republic* (2008) 3 ID No 95). The aforesaid decision adds to the grounds for the dismissal of the present action even though the applicant has ceased to have a legitimate interest in the promotion of his action, particularly since the contested act is a consequence of the substantive act of declaring the applicant as a forbidden immigrant, which the applicant has accepted through his voluntary departure from the Republic.