

## Litigation - Cyprus

### New Administrative Court established

Contributed by **Andreas Neocleous & Co LLC**

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The Law on the Establishment and Operation of an Administrative Court was adopted by the House of Representatives on July 9 2015 and entered into force on July 21 2015, following its publication in the *Official Gazette*. The law provides for the establishment of an Administrative Court in Nicosia, with exclusive jurisdiction to adjudicate administrative recourses under Article 146 of the Constitution.<sup>(1)</sup> The establishment and operation of the new court required an amendment to the Constitution, which previously gave jurisdiction in such disputes to the Supreme Court.<sup>(2)</sup>

One of the law's objectives is to transpose into domestic law the requirement under the Recast Asylum Procedures Directive<sup>(3)</sup> and the Recast Reception Conditions Directive<sup>(4)</sup> to establish a body with the authority and functions of a court to hear actions against government decisions. The law aims to reduce the caseload of the Supreme Court – which has thus far been the first-instance administrative court in Cyprus – by almost half to speed up the adjudication of civil and criminal appellate proceedings. The new court is also expected to expedite the adjudication of administrative recourses, which have hitherto taken typically three or four years to complete.

The new Administrative Court will be comprised of a president and up to six judges, all appointed by the Supreme Council of Judicature, a body composed of Supreme Court judges. The judges of the new court must meet the requirements set by the Courts of Justice Law<sup>(5)</sup> to be appointed as a district court president or a senior district judge,<sup>(6)</sup> and must have broad knowledge of administrative matters or proven experience in handling cases that will come under the Administrative Court's jurisdiction.

According to the law and the amendment to the Constitution, the Administrative Court will have jurisdiction to review at first instance the lawfulness of decisions, actions or omissions of any organ, authority or person exercising executive or administrative authority, and the power to validate or nullify any such decision, action or omission. In tax matters and immigration litigation the Administrative Court will also have the power to amend any such decision or action in order to make it compatible with the applicable laws. The law provides that all decisions of the Administrative Court will be subject to appeal before the Supreme Court, as the supreme administrative court in Cyprus. Appeals must be lodged within 42 days of the date of issue of the first-instance decision and can be made only on grounds relating to a question of law.

The law also contains transitional provisions under which administrative recourses pending before the Supreme Court will be transferred to the new Administrative Court for adjudication, while recourses in which judgment was reserved prior to the date of entry into force of the law will be adjudicated by the court which heard them.

*For further information on this topic please contact Costas Stamatiou or Evgenia Parmenidou at Andreas Neocleous & Co LLC by telephone (+357 25 110 000) or email (stamatiou@neocleous.com or evgenia.parmenidou@neocleous.com). The Andreas Neocleous & Co LLC website can be accessed at [www.neocleous.com](http://www.neocleous.com).*

### Endnotes

<sup>(1)</sup> Article 146 provides a mechanism for judicial review of any complaint that a decision, act or omission of any body, authority or person exercising any executive or administrative authority is contrary to the Constitution or any law, or has been issued in excess or abuse of powers vested in the body, authority or person concerned.

<sup>(2)</sup> The eighth amendment.

<sup>(3)</sup> Directive 2013/32/EC.

<sup>(4)</sup> Directive 2013/33/EC.

<sup>(5)</sup> Law 14/1960.

<sup>(6)</sup> An advocate with at least 10 years' experience and high moral rectitude.

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## Authors

### Costas Stamatiou



### Evgenia Parmenidou



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