1981 April 22

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION.

ORYCTAKO LTD.,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF COMMERCE AND INDUSTRY,
2. THE SENIOR MINES OFFICER,

Respondents.

(*Case No.* 145/79).

Administrative Law—Administrative acts or decisions—Reasoning—May be found not only in the sub judice *decision but in the relevant minutes of the administrative organ concerned or may be supplemented by material in the file.*

Administrative Law—Policy—Government policy—Within discretion of the administration to take it into account once it exists.

Administrative Law—Policy matters—Public interest—And economy of Cyprus—Are policy matters and cannot be the subject of judicial control.

Administrative Law—Misconception of fact—Quarry licence—Refusal to renew—All relevant factors taken into consideration—No misconception of fact.

Constitutional Law—Council of Ministers—Decisions of—Publication in the official Gazette—Whether always necessary—Article 57.4 *of the Constitution.*

Mines and quarries—Pentonite—Quarry licence for a specified period—Renewal—Within discretion of the respondents—Sections 37-39 *of the Mines and Quarries (Regulation) Law, Cap.* 270—*Fact that applicants had contractual obligations for provision of pento-*

nite abroad taken into consideration but not a fact which, in the circumstances of this case, could deprive the respondents of their discretion in refusing to renew the permit—Nor is the refusal contrary to section 39(2) *of the Law—Because the applicants were at all times aware of the duration of the licence and accepted it unconditionally.*

On June 2, 1975, the applicants were granted a quarry licence ("the licence") to dig up pentonite, for a period of three years ending on 1.6.1978 from the area described in the licence. As no work had been carried out in respect of the licence respondent 2 by letters dated 14.9.1977* and 25.1.1978* drew the attention of the applicants to the fact that if they do not commence any mining work within the time stated in the letters their licence might be cancelled. There followed a renewal of the licence until December 31, 1978; and on November 29, 1978 the applicants applied for a renewal of the licence for five years from its expiration. The respondents turned down the application by means of a letter** dated 9.1.1979; and hence this recourse.

Counsel for the applicant mainly contended:

(a) That the *sub judice* decision is not duly reasoned.

(b) That the so–called "government policy" on the subject was not an existing factor and should not have been taken into account.

(c) That the decision of the Council of Ministers dated 25.4.1977 on which the Government policy" men-

* The letters are quoted at pp. 178–9 and p. 179 respectively, post.

** The letter is quoted at p. 181 post and so far as relevant reads as follows:

"The decision of the Minister of Commerce and Industry which was communicated to me by letter of the Director-General dated the 23rd December, 1978, Serial No. 970/23, is that your quarry permit No. 3440 was renewed until the end of 1978 in order to enable you to dig up the amount of pentonite for which there was a letter of credit. It has been stressed to the Director of your company that further renewal of the permit would depend on the Government policy on the matter of exploitation of pentonites as a whole.

In view of the fact that the said Government policy has not yet been formulated, the Minister has decided that the said permit cannot be renewed at present and you must stop any quarry work under the permit.

The quarry permits Nos. 3440 and 3493 cannot be transferred to Pentonline Ltd. because there cannot be any quarry operation at present".

tioned in the *sub judice* decision is based, is void because it had not been published in the official Gazette of the Republic.

(d) That the respondents acted under misconception of facts in that they failed to take into consideration the fact that the applicants had contractual obligations for the provision of pentonite to clients abroad.

(e) That the respondents acted under a misconception of facts in that they failed to take into consideration that it was in the interest of the economy of Cyprus that the quarry in question should remain in existence.

(f) That the respondents acted contrary to the provisions of section 39(2) of the Mines and Quarries (Regulation) Law, Cap. 270, which provides that quarry permits may be granted for periods not exceeding 25 or 50 years where considerable expenditure is necessitated; and that the period of three years for which the permit was granted to the applicants in this case was much too short to enable them carry out any profitable work.

Held, (1) that the reasoning of an act or decision may be found not only in the letter containing the *sub judice* decision, but also in the relevant minutes of the administrative organ concerned or may be supplemented by material in the file; that in the present case the reasoning is clear from the whole correspondence in the file; accordingly contention (a) must fail.

(2) That as to whether any Government policy ever existed this is clear from the material in the file; that the respondents did not base their decision on facts which did not exist; and that the Government policy or plan existed and it was within the discretion of the respondents to take it into account; accordingly contention (b) must fail (see Papahatzis "studies on the Law of Administrative Disputes" 1961 ed. p. 356).

(3) That the non-publication of the decision of the Council of Ministers, in the official Gazette is not a ground for annulling same, in view of the fact that such non-publication was the result of a decision to that effect taken by the Council of Ministers

in the exercise of their powers under Article 57.4* of the Constitution; accordingly contention (c) must fail.

(4) That it is obvious from the whole correspondence and the material in the file that the respondents took into consideration the fact that applicants had contractual obligations for the provision of pentonite to clients abroad and this was actually the reason they extended the licence of the applicants after the 1st June, 1978, when it had in fact expired; that the fact that the applicants, instead of utilizing the extension granted to them to meet already existing contractual obligations they started negotiating new contracts creating new contractual obligations is not a fact which should have any bearing in the case and deprive the respondents of their discretion in refusing to renew such permit, in the circumstances of this case and in the light of the reasons for which the permit was extended for the last time till the 31st December, 1978; that, therefore, there was no misconception of facts; accordingly contention (d) must fail.

(5) That the public interest and the economy of Cyprus are policy matters and as such cannot be the subject of judicial control; accordingly contention (e) must fail.

(6) That the permit in question was issued to the applicants in 1975 for the period and subject to the conditions referred to therein which were made known to the applicants and were accepted by them unconditionally with no reservation as to the duration or otherwise; that the applicants if not satisfied with the conditions imposed, could have taken up the matter soon after the issue of the permit, which was the proper time for them to protest, but they failed to do so; that this Court has not been convinced that the respondents did not exercise their discretion properly in the present case in refusing to renew the permit or that in considering the application for a further renewal of the permit, they did not take into consideration or have not given due weight to all material facts before them; accordingly contention (f) must, also, fail and the recourse be dismissed.

Application dismissed.

* Article 57.4 is quoted at p. 185 *post.*

Cases referred to:

Savva v. *Republic* (1979) 3 C.L.R. 250;

Carayannis v. *Republic* (1980) 3 C.L.R. 39;

Antoniades v. *Republic* (1979) 3 C.L.R. 641.

Recourse.

Recourse against the refusal of the respondents to renew quarry permit No. 3440 for digging up pentonite.

L. Papaphilippou, for the applicant.

Cl. Antoniades, Senior Counsel of the Republic, for the respondent.

Cur. adv. vult.

SAVVIDES J. read the following judgment. The applicants are a company of limited liability. On 2.6.1975 they obtained a quarry permit (No. 3440) to dig up pentonite for a period of three years ending on 1.6.1978 from the area described in the licence (document marked 'A' attached to the application).

Until March, 1977 no quarry work had been carried out in respect of the permit concerned and on 23.3.1977 the Acting Senior Mines Officer addressed a letter to the applicants (document No. 2 attached to the Opposition), drawing their attention to the fact that if they did not commence any mining work within a reasonable time, then their permit might be cancelled. It was also stated in that letter, that the Government was considering ways of exploiting pentonite and it was soon expected that they would take some specific decisions on the matter and also that they would take into account, in deciding the fate of existing quarries, their activities till then.

On the 14th September, 1977, after the interchange of some letters and views between the Senior Mines Officer, the Director General of the Ministry of Commerce and Industry and the Attorney-General of the Republic, the Senior Mines Officer addressed the following letter (document No. 5 attached to the Opposition), to the applicant Company:-

"Quarry permit No. 3440, for digging up pentonite.

I refer to your permit as above which was issued on the 2nd June, 1975 for a period of three years and I draw

your attention to the point that according to the Mines and Quarries (Regulation) Law, Cap. 270 and especially sections 25 and 39, you are under the obligation to work your mine and if you omit to do so within a reasonable period of time then your permit might be cancelled. Until today you have not met your obligations.

I have been instructed to warn you that if within six months you do not proceed to any mining operations your said permit will be cancelled".

On 4.1.1978 the company wrote to the Senior Mines Officer a letter asking for an extension of their quarry permit No. 3440 for a further period of five years, on the ground that they had merged with another company and had started having contacts abroad concerning the pentonite, which were still pending (document No. 6 attached to the Opposition).

On the 25th January, 1978, the Senior Mines Officer replied to the applicants' letter as follows (document No. 7 attached to the Opposition):-

"Permit No. 3440 for pentonite.

In reply to your letter dated the 4th January, 1978, regarding the above-mentioned subject, I inform you that the Minister of Commerce and Industry decided to give you a notice of only six months if in the meantime you do not fulfil your working obligations.

The notice was given to you as from the 14th September, 1977 and consequently, your permit will be cancelled on the 13th March, 1978, if you do not start mining operations on a satisfactory scale".

On 29.3.1978, the Senior Mines Officer addressed a new letter (document No. 9) to the applicants which is as follows:-

"I refer to previous correspondence ending with my letter to you bearing the same number and dated 25.1.1978, by which notice was given to you in that, if within six months from the 14.9.1977 no quarry operations were carried out, the permit would have been cancelled, and I inform you that after another meeting that the representatives of 'Laporte Industries Company Ltd.' had with

the Ministry, it was decided that the said permit should stay in force until the end of April, 1978, in order to enable that company to submit concrete proposal to the Government.

If until that date no proposals of the said company are received, your permit will be cancelled".

On 18.5.1978, the applicants' lawyer addressed a letter to the Senior Mines Officer (document No. 10), in which he pointed out firstly that "Laporte Industries Company Ltd." had shown a strong interest in the matter but had not yet given any reply and if the permit was cancelled it will render that company's decision ineffective; secondly, that the applicant company had merged with Pentonline Ltd. who had a buyer coming from Germany to negotiate the loading of the first 2,600 tons of pentonite; and finally he asked for three months' extension of the permit so that his clients would be able to work their mine before the permit is cancelled.

The Director-General of the Ministry of Commerce and Industry by a letter dated 9.9.1978 (document No. 11), instructed the Senior Mines Officer to inform the applicants that their last application was granted and that they could dig up for the time being, pentonite from their quarry permit No. 3493 which would expire on 31.8.1980, as well as from their quarry permit No. 3440 which was to be renewed till the 31st December, 1978.

On 29.11.1978, the applicants addressed the following letter (document No. 12) to the Senior Mines Officer:-

"*Subject*: *Quarry Permit No.* 3440.

Sir,

With reference to the above subject, we inform you that we effect a continuous digging up of the product and store it on the spot until the completion of the factory.

We would also like to inform you that after personal contacts with clients from abroad, we have secured several offers for export as from April, 1979.

We therefore request that the above permit be renewed for five years from its expiration, that is, from 31.12.1978-30.12.1983.

We are in a position to supply any material which you might consider necessary for taking your decision".

The Senior Mines Officer referred the above application to the Ministry of Commerce and Industry by covering letter dated 11.12.1978 (document No. 13) and he was consequently instructed to inform the applicants that the Minister decided not to renew the said permit after its expiry (document No. 15). The letter sent by the Senior Mines Officer to the applicant company, which is the subject of this recourse, is dated 9.1.1979 and reads as follows (document No. 16):-

"The decision of the Ministry of Commerce and Industry which was communicated to me by letter of the Director-General dated the 23rd December, 1978, Serial No. 970/23, is that your quarry permit No. 3440 was renewed until the end of 1978 in order to enable you to dig up the amount of pentonite for which there was a letter of credit. It has been stressed to the Director of your company that further renewal of the permit would depend on the Government policy on the matter of exploitation of pentonites as a whole.

In view of the fact that the said Government policy has not yet been formulated, the Minister has decided that the said permit cannot be renewed at present and you must stop any quarry work under the permit.

The quarry permits Nos 3440 and 3493 cannot be transferred to Pentonline Ltd. because there cannot be any quarry operation at present".

The applicants, after receiving the decision of the Minister contained in the above letter, filed the present recourse, on 27.3.1979, by which they seek:-

"a declaration of the Court to the effect that the refusal and/or omission of the respondents (contained in that letter) to renew the quarry permit No. 3440 for digging up pentonite is null and void and of no legal effect whatsoever".

The application is based on the following grounds of law:-

"1. The respondents acted under misconception of facts, having based their decision on the fact that the Govern-

ment policy on the subject of exploiting pentonites had not yet been formulated.

2. The respondents acted contrary to section 39 of Cap. 270.

3. The respondents acted under misconception of facts in that they did not take into consideration and/or neglected the fact that the applicants had and still have contractual obligations for the provision of pentonite to clients abroad.

4. The respondents acted under misconception of facts in that it is to the general interest of the economy of Cyprus that the quarry concerned should continue operating".

By his opposition counsel for the respondents contends that the *sub judice* decision was taken correctly and lawfully in the exercise by the respondents of their discretion under the Mines and Quarries (Regulation) Law, Cap. 270 and the regulations made thereunder, and on the basis of all material facts as they appear in the statement of facts of the Senior Mines Officer dated 10.4.1979 which is attached to the Opposition.

In support of his first legal ground counsel for applicants maintained that the decision of the Council of Ministers is not legally founded and in any event is not reasonable. He further maintained that the decision of the Council of Ministers dated 25.4.1977, on which the "government policy" mentioned in the *sub judice* decision is based, is void as:

(a) it had not been published in the official Gazette of the Republic.

(b) It is contrary to the provisions of the Mines and Quarries (Regulation) Law, Cap. 270 and ultra vires to the said provisions.

(c) The Government has no legal power to create organs exercising powers in the absence of legislative authority granting such power.

(d) That the Council of Ministers is an executory organ and not a legislative organ, and

(e) the said decision of the Council of Ministers does not constitute an executory act.

Furthermore, he maintained that for a decision to be valid, it must be based on real facts existing at the material time or facts which are positively expected to take place and not on vague, uncertain and future facts. Also, that the so-called "government policy" on the subject is a non-existing factor and should not have been taken into account and thus the reasoning of the *sub judice* decision is wrong.

Dealing with his second ground of law, counsel contended that the respondents exercised the discretion granted to them under section 39 of Cap. 270 wrongly and in any case contrary to the provisions of the said Law. He maintained that the respondents failed to take into consideration the fact that for the operation of the said mine a considerable amount of capital was required and also time to enable them to provide such capital and start carrying out the operation. Also, securing buyers from abroad was a process which required time and considerable expense, and he gave as an example the fact that though the applicants secured the permit on the 2nd June, 1975, it was only till the 16th of June, 1978 that they managed to get the first agreement for export on a trial basis of a quantity of 2,000 metric tons of pentonite. He also maintained that the so-called "government policy" on the subject was not an existing factor and should not have been taken into account.

The third and fourth grounds of law are connected with the first ground. Counsel for the applicants went into detail into the facts appearing in the file and all the correspondence exchanged between the parties, as summarised earlier in this judgment and submitted that the respondents overlooked the fact that as a result of the exports which the applicants were negotiating a considerable sum of foreign exchange would have been secured, for the financial benefit of the Republic of Cyprus and in conclusion, he said that the respondents acted under misconception of fact which by itself, is a sufficient ground for annulling the *sub judice* decision.

Counsel for the respondents, on the other hand, in dealing with the first ground of law on which the recourse was based, contended that the reasoning for the refusal to renew the permit No. 3440 is contained not only in the letter dated 9th January, 1979, but in all the documents related to the present recourse and which were *exhibits* before the Court. The substance

of this reasoning which appears in the decision 281/77 dated 23rd April, 1977 is to the effect that the Government was considering the formulation of a policy for the exploitation of pentonites. The existence of such "government policy" is shown by the whole correspondence on the subject which has been put before the Court. Counsel submitted that the non-publication of the decision in the official Gazette was lawful and the Council of Ministers acted within the provisions of Article 57.4 of the Constitution in deciding not to publish its decision No. 15785 and, also, that such decision is not in any event contrary to the spirit and context of Cap. 270. He further maintained that the Government has not created any organs vested with powers as alleged by the applicants. As to the allegations that the act is not an executory one, he submitted that such allegation is legally unfounded and contradicted by all other allegations of the applicants.

In dealing with the second ground of law, he submitted that the respondents exercised their discretion properly and not contrary to section 39 of Cap. 270.

With regard to grounds 3 and 4, he also relied on the facts which were before the Court and concluded that the allegations of the applicants are legally unfounded and unjustified and that in the circumstances of the present case, the decision was properly taken in the exercise of a discretionary power vested in the respondents and in accordance with the provisions of Cap. 270 with all material facts taken into consideration.

I come now to deal with the various legal grounds on which the present recourse is based and I come first to ground 1.

It is a well known principle of administrative law that the reasoning of an act or decision may be found not only in the letter containing the *sub judice* decision, but also in the relevant minutes of the administrative organ concerned or may be supplemented by material in the file (vide, *inter alia*, *Savva* v. *The Republic* (1979) 3 C.L.R. 250, and *Carayannis* v. *The Republic* (1980) 3 C.L.R. 39). In the present case, the reasoning is clear from the whole correspondence in the file and especially the letter dated 23.3.77 addressed to the applicants (document No. 2 attached to the Opposition) and, also, the submission to the Council of Ministers No. 281/77 and its decision thereon, dated 28.4.1977 (document No. 18).

As to whether any government policy ever existed, this is also clear from the material in the file and especially the submission to the Council of Ministers No. 281/77, its decision dated 28.4.1977 (document No. 18), and another submission (No. 318/78) and the decision of the Council of Ministers on it, dated 20.4.78, by which all areas covered by mining or quarry permits existing at the time or at any future time were to be pronounced as closed, to enable the department concerned to make its prospectives. There is, also, finally, a report dated 7.2.1980 (under Nos 19, 20 put in by counsel for respondents with his address) showing the progress of the government operations regarding exploitation of pentonites, during the years 1978 and 1979. The policy existed all along and it was just a matter of time as to when and how it would have been formulated. The respondents did not base their decision on facts which did not exist. The government policy or plan existed and it was within the discretion of the respondents to take it into account. In Papahatzis "Studies on the Law of Administrative Disputes" (Μελέται ἐπὶ τοῦ Δικαίου τῶν Διοικητικῶν Διαφορῶν) 1961 edition, at p. 356 it is stated that:-

> "Τὸ ζήτημα τῆς εὐστόχου ἢ μὴ ἀσκήσεως τῆς τοιαύτης εὐχερείας δὲν εἶναι ζήτημα νομικόν, ἀλλὰ ζήτημα πολιτικῆς τῆς διοικήσεως".
>
> (The matter of the proper or not exercise of such power is not a matter of law, but a policy matter of the administration).

The non-publication of the decision of the Council of Ministers, in the official Gazette is not a ground for annulling same, in view of the fact that such non-publication was the result of a decision to that effect taken by the Council of Ministers in the exercise of their powers under Article 57.4 of the Constitution which provides as follows:

> "If the decision is enforceable and no right of veto or return has been exercised as in paragraph 2 or 3 of this Article provided, such decision shall be forthwith promulgated by the President and the Vice-President of the Republic by publication in the official Gazette of the Republic unless the Council of Ministers otherwise states in that decision".

As to the allegation that the *sub judice* decision is contrary to the provisions of the Mines and Quarries (Regulation) Law, Cap. 270, I shall deal with same when examining the 2nd ground of law set out in the present recourse.

As to the other legal points raised by counsel for applicants in his address on the first ground of law in that the respondents had no power to create organs exercising powers, that the Council of Ministers is an executory and not a legislative organ and that the said decision of the Council of Ministers does not constitute an executory act, no argument was advanced by counsel for applicants in support of such contention. Going through the various documents I could not trace anywhere any decision of the Council of Ministers creating any organ vested with the exercise of any powers for which legislative authority was necessary.

In the result I have come to the conclusion that the first ground of law on which the recourse is based, fails.

As legal grounds 3 and 4 present similar points with ground 1 consisting of allegations of misconception of facts, I shall deal with such ground now before dealing with ground 2. The third ground is that the respondents acted under misconception of facts in that they failed to take into consideration the fact that the respondents had contractual obligations for the provision of pentonite to clients abroad. It is obvious from the whole correspondence and the material in the file that the respondents took this factor into consideration and that this was actually the reason they extended the licence of the applicants after the 1st June, 1978, when it had in fact expired. The respondents were in full knowledge of it. This appears from the letter of the applicants dated 18.5.1978 to the Senior Mines Officer (referred to above as document No. 10) paragraph 2 of which reads:

> " 'Επιπροσθέτως θὰ ἤθελα νὰ καταστήσω ὑμᾶς γνωστὸν ὅτι συνήφθη συμφωνία μεταξὺ τῶν πελατῶν μου καὶ τῆς THE BENTONLINE LTD. περὶ συνεργασίας καὶ ἡ συνενώσεως τῶν συμφερόντων των, ὅσον ἀφορᾶ τὴν ἐξαγωγὴν Πεντονίτου. 'Ως δὲ μὲ πληροφορεῖ ὁ κ. Κώστας Δρουσιώτης, Διοικητικὸς Σύμβουλος τῆς THE BENTONLINE LTD., ἤδη ἔχει ἕτοιμον ἀγοραστὴν ἐκ Γερμανίας ὅστις πρὸς τοῦτο

ἔρχεται εἰς Κύπρον κατὰ τὰς ἀρχὰς τοῦ ἑπομένου μηνὸς διὰ νὰ διαπραγματευθῆ τὴν φόρτωσιν τῶν πρώτων 2,600 τόνων πεντονίτου.

Πρὸς τούτοις θὰ ἤθελα νὰ παρακαλέσω ὑμᾶς ὅπως δοθῆ πρὸς τοὺς πελάτας μου τριῶν μηνῶν παράτασις διὰ νὰ διεξάγουν τὰς λατομικὰς των ἐργασίας εἰς τὸ ἄνω προνόμιον πρὶν τὸ Ὑμέτερον Ὑπουργεῖον ἀκυρώση τοῦτο".

("Besides I would like to make it known to you that an agreement has been entered into between our clients and the Bentonline Ltd., for the co-operation and/or merging of their interests regarding the extraction of pentonite. As I am informed by Mr. Costas Droushiotis, a Director of the Bentonline Ltd. he has already a ready buyer from Germany who is coming for this purpose to Cyprus at the beginning of next month for negotiating the loading of the first 2,600 tons of pentonite.

In this respect I would like to request that three months extension be given to our clients for carrying out their quarrying work in the above prospect before your Ministry cancels same").

In reply to such letter respondent No. 1 informed the Senior Mines Officer by letter dated 9.8.1978 (referred to above as document No. 11) of his decision to renew the Quarry Permit No. 3440 till 31.12.78 and authorised him to bring this to the notice of the applicants asking them at the same time to send their permit for renewal in accordance with such decision. The contents of such letter were as follows:-

" 'Η 'Εταιρεία θὰ δύναται νὰ ἀνορύξη προσωρινῶς πεντονίτη ἐκ τοῦ Προνομοίου Λατομείου της ὑπ' ἀρ. 3493 τὸ ὁποῖον λήγει τὴν 31ην Αὐγούστου 1980 καθὼς καὶ ἐκ τοῦ Προνομίου Λατομείου ὑπ' ἀρ. 3440 τὸ ὁποῖον ἀπεφασίσθη ὅπως ἀνανεωθῆ μέχρι τῆς 31ης Δεκεμβρίου, 1978.

2. Παρακαλεῖσθε ὅπως πληροφορήσητε ἀναλόγως τὴν ἐνδιαφερομένην 'Εταιρείαν καὶ ἀποστείλητε τὸ Προνόμιον ὑπ' ἀρ. 3440 δι' ἀνανέωσιν".

("The Company can exctract pentonite from Prospecting Permit No. 3493 which expires on the 31st August, 1980,

as well as from Prospecting Permit No. 3440 which, it was decided, will be renewed until the 31st December, 1978.

You are requested to inform accordingly the Company concerned and send Prospecting Permit No. 3440 for renewal").

This was brought to the notice of the applicants who sent their permit for renewal. The permit was renewed till the 31st December, 1978 and was returned to the applicants with a covering letter dated 17th November, 1976 (*exhibit* B attached to the Application).

It is clear from the above correspondence that the respondents for the purpose of facilitating the applicants to materialise their exports granted to them an extension of their permit for a period of seven months ending 31st December, 1978, as against the period of three months asked for by applicants. The fact that the applicants instead of utilising the extension granted to them to meet already existing contractual obligations they started negotiating new contracts creating new contractual obligations, is not a fact which should have any bearing in the case and deprive the respondents of their discretion in refusing to renew such permit, in the circumstances of the present case and in the light of the reasons for which the permit was extended for the last time till the 31st December, 1978.

In the light of the above, I have come to the conclusion that there was no misconception of facts as far as this ground is concerned.

The fourth ground of law that the respondents acted under a misconception of facts in that they failed to take into consideration that it was in the interest of the economy of Cyprus that the said quarry should remain in existence is also legally unfounded. The public interest and the economy of Cyprus are policy matters and as such cannot be the subject of judicial control (vide *Antoniades & Others* v. *The Republic* (1979) 3 C.L.R. 641).

I come now to the remaining ground of law, which is ground 2 in the recourse, that the respondents acted contrary to the provisions of section 39 of Cap. 270. The contention of counsel

for applicants is that according to section 39(2) of the said Law, quarry permits may be granted for periods not exceeding 25 or 50 years where considerable expenditure is necessitated on the part of the applicants and that the period of three years for which the permit was granted to the applicants in the present case was much too short to enable them carry out any profitable work. This contention cannot stand. The permit in question was issued to the applicants in 1975 for the period and subject to the conditions referred to therein. Such conditions were made known to the applicants by letter of the Ministry of Commerce and Industry dated 21st April, 1975 and the applicants accepted them unconditionally with no reservation as to the duration or otherwise. The applicants if not satisfied with the conditions imposed, could have taken up the matter soon after the issue of the permit, which was the proper time for them to protest, but they failed to do so. The present recourse, however, is concerned with the refusal of the respondents to renew the permit after the expiration of the last extension i.e. after the 31st December, 1978. I need not go into the facts of the case which have already been dealt with extensively in this judgment. The circumstances under which the last extension was granted, have already been explained. It was in response to a request by the applicants for a three months' extension to enable them to complete certain quarrying operations that the permit was renewed by the respondents not for three months, as applied for, but for seven months. I have not been convinced that the respondents did not exercise their discretion properly in the present case in refusing to renew the permit or that in considering the application for a further renewal of the permit, they did not take into consideration or have not given due weight to all material facts before them.

For all the above reasons, the present recourse fails but in the circumstances of the case I make no order for costs.

Application dismissed. No order as to costs.