1981 December 19

[A. Loizou, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

GEORGHIA MIKELLIDOU,

Applicant,

v.

THE REPUBLIC OF CYPRUS, AND/OR THROUGH THE EDUCATIONAL SERVICE COMMITTEE,

Respondent.

(*Case No.* 128/81).

---

*Public Officers—Schemes of service—Qualifications—Incumbent on respondent Committee to carry out the necessary inquiry and satisfy itself that applicant's qualifications satisfied the requirements of the schemes of service—Committee failing to conduct the necessary for the purposes inquiry into all material aspects of the matter—*Sub judice *decision annulled.*

Administrative Law—Inquiry–Due inquiry—Failure to make a due inquiry results in the invalidity of the relevant administrative action—Public Officers—Schemes of service—Qualifications—No inquiry by the Committee into all relevant aspects of the question whether applicant's qualifications satisfied the requirements of the scheme of service—Sub judice decision annulled.

*Administrative Law—Administrative acts or decisions—Reasoning —Due reasoning—Reasoning contrary to relevant administrative records—And given in a very general and sweeeping manner—*Sub judice *decision annulled.*

Administrative Law—Procedure—Contravention of—Constitutes a ground of annulment as being a violation of form.

The applicant, a Schoolmistress of Physical Education on salary scale B.6, applied to the respondent Committee for emplacement on salary scale B.10. The scheme of service of the scale B.10 post required, *inter alia*, a "post-graduate University title in the relevant branch or an equivalent qualifi-

cation". And what the respondent Committee had to consider was whether the certificates in Physical Education which the applicant obtained after two courses of one year's duration each at the University of Sussex, School of Education, Chelsea College of Physical Education, satisfied the above requirement of the scheme of service. The respondent Committee acting in pursuance of paragraph 3(iii)* of the schemes of service referred applicant's case to the Qualifications Evaluation Committee of the Ministry of Education whose duty was the evaluation of the qualifications of Educational Officers. The Evaluation Committee referred the matter to the Head of the Department of Physical Education who in a minute** which he addressed to the Committee he stated that applicant's qualifications satisfied the requirements of the scheme of service. Applicant was, on November 13, 1980 asked by the respondent Committee, on the suggestion of the Evaluation Committee, to produce a certificate, from the Department of Education and Science in England in which the level of her qualifications, in relation to the degrees of B.A. and M.A. would appear. The applicant replied on the 11th December, 1980, stating that she could not produce other certificates than those she had been awarded during her two years postgraduate course in England. The respondent Committee met on the 9th February, 1981, before obtaining the opinion of the Evaluation Committee and decided*** that applicant did not possess the qualifications required by the schemes of service. Hence this recourse.

Held, that it was incumbent on the respondent Committee to carry out itself the necessary inquiry and satisfy itself that applicant's qualifications satisfied the requirements of the schemes of service; that though respondent Committee initiated the procedure for an inquiry, as envisaged by paragraph 3(iii)

---

* Paragraph 3(iii) reads as follows:

"3. .....

(iii) In order to face problems relating to the consideration of the equivalence or not of qualifications or educational institutions and to the evaluation of the level of qualifications or educational institutions for purposes of this scheme of service there is established a procedure as may be directed by the Ministry of Education by means of directions given from time to time".

** The minute is quoted at pp. 465–466 *post*.

*** The decision is quoted at pp. 466–467 *post*.

of the schemes of service, it proceeded to decide itself on the application of the applicant before obtaining the requested opinion of the Evaluation Committee; that, therefore, the respondent Committee has not made the necessary effort to ascertain for itself whether the applicant satisfied the requirements of the relevant scheme of service and has not conducted the sufficiently necessary inquiry into a most material aspect of the matter; that a failure to make a due inquiry results, due to contravention of well settled principles of administrative law, in the invalidity of the relevant administrative action because the notion of "law" in Article 146.1 of the Constitution has to be construed as including the well settled principles of administrative law; that, therefore, the *sub judice* decision must be annulled because the respondent Committee has failed to conduct the necessary for the purposes inquiry into all material aspects of the matter, a situation that renders the *sub judice* decision contrary to the well established principles of administrative law and thus contrary to law in the sense of Article 146.1 of the Constitution.

Held, further, (1) that the *sub judice* decision must be annulled for lack of due reasoning, more particularly because its reasoning is contrary to the contents of the official records, namely, the aforesaid recorded views of the Head of the Department of Physical Education.

(2) That the reasoning of the *sub judice* decision was given in a very general and sweeping manner and this general and sweeping manner in which the reasoning was given constitutes also a ground for the annulment of the *sub judice* decision (see *Sophocleous (No. 1)* v. *The Republic* (1972) 3 C.L.R. 56 at pp. 60–61).

(3) That the contravention by the respondent Committee of the procedure, set up by paragraph 3(iii) of the schemes of service, for resolving the issue constitutes a ground of annulment as being a violation of form which in the circumstances was a substantial one (see conclusions of the Jurisprudence of the Greek Council of State and Stassinopoulos in his textbook "The Law of the Administrative Acts" (1951) p. 224).

Sub judice decision annulled.

Cases referred to:

Papapetrou v. *The Republic*, 2 R.S.C.C. 61;

Georghiades v. *The Republic* (1967) 3 C.L.R. 653;
Tourpeki v. *The Republic* (1973) 3 C.L.R. 592;
Petsas v. *The Republic*, 3 R.S.C.C. 60;
Phylachtou v. *The Republic* (1973) 3 C.L.R. 444;
Zinieris (No. 1) The Republic (1975) 3 C.L.R. 13;
Stylianou v. *The Republic* (1980) 3 C.L.R. 11;
Constantinidou and Others v. *The Republic* (1976) 3 C.L.R. 78;
Aristotelous v. *The Republic* (1969) 3 C.L.R. 232;
Georghiades v. *The Republic* (1967) 3 C.L.R. 65;
HadjiDemetriou v. *The Republic* (1980) 3 C.L.R. 20;
Ioannides v. *The Republic* (1972) 3 C.L.R. 318;
Antoniou v. *The Republic* (1978) 3 C.L.R. 308;
HadjiPaschali v. *The Republic* (1980) 3 C.L.R. 101;
PEO v. *Board of Cinematograph Film Censors* (1965) 3 C.L.R. 27 at p. 37;
Constantinides v. *The Republic* (1967) 3 C.L.R. 7 at p. 14;
Papazachariou v. *The Republic* (1972) 3 C.L.R. 486;
Eleftheriou & Others v. *Central Bank* (1980) 3 C.L.R. 85;
Sofocleous (No. 1) v. *The Republic* (1972) 3 C.L.R. 56 at pp. 60–61;
Georghiou v. *The Republic* (1976) 3 C.L.R. 74;
Ioannou v. *The Republic* (1977) 3 C.L.R. 61 at p. 74;
Lardis v. *The Republic* (1967) 3 C.L.R. 64;
Petrondas v. *Attorney-General* (1969) 3 C.L.R. 214;
Iacovides v. *The Republic* (1966) 3 C.L.R. 212.

Recourse.

Recourse against the decision of the respondent not to emplace applicant as a schoolmistress of Physical Education on Salary Scale B. 10.

A. S. Angelides, for the applicant.

G. Constantinou (Miss), Counsel of the Republic, for the respondent.

Cur. adv. vult.

A. Loizou J. read the following judgment. By the present recourse the applicant seeks a declaration of the Court that the decision and or the act of the respondent Committee con-

tained in the letter of its Chairman, dated 9th February, 1981, by which they decided not to emplace her as a schoolmistress of Physical Education on Salary Scale B. 10, is null and void and of no effect whatsoever.

The applicant is a schoolmistress of Physical Education on Salary Scale B. 6. She graduated the Athens National Academy of Physical Education in 1964. In July 1976 she satisfactorily completed a "supplementary one year course" in Physical Education at the University of Sussex, School of Education, Chelsea College of Physical Education, and was awarded the relevant certificate having attended the College from September 1975 to July 1976. She, thereafter, completed an extra year of study from September 1976 at the East Sussex College of Higher Education and was awarded a "supplementary certificate in Physical Education". (*Exhibit* 1, blues 100–105).

On the 13th November, 1979, she applied to the respondent Committee for emplacement on Salary Scale B. 10 (*exhibit* 1, Blue 115), stating, *inter alia*, that she had attended a two year postgraduate course at Chelsea College of Sussex University and that she had 15 years' satisfactory service.

On the 15th November, 1979, the respondent Committee referred the case of the applicant to the Qualifications Evaluation Committee of the Ministry of Education (*exhibit* 1 Note 12), whose duty, as its name indicates, is the evaluation of the qualifications of Educational Officers. On the 20th October, 1980, the said Committee referred the matter to the Head of the Department of Physical Education in the Ministry of Education for his views (*exhibit* 1, Note 13), who on the 24th October, 1980, wrote the following minute to the respondent Committee through the Chairman of the Qualifications Evaluation Committee (*exhibit* 1, Note 14).

> "The graduates of the National Academy of Physical Education are no doubt considered as holding a graduation certificate.
>
> The post-graduate education of Miss Mikelides, which according to the certificate at Blue 102 is considered as 'Diploma Course' covers her as having acquired a post-graduate University title. She, moreover, possesses a post-graduate education for a further one year (Blue

105). Even if the first post-graduate title was not to be considered as a post-graduate University title, with the additional course we are certainly of the opinion that Miss Mikellides has at least acquired a qualification which is equivalent to a post-graduate University title, which gives her the right to be placed on Scale B. 10".

On the 13th November, 1980, the Chairman of the Qualifications Evaluation Committee addressed the following minute to the Chairman of the respondent Committee (*exhibit* 1, Note 15).

"Chairman Educational Service Committee, The Qualifications Evaluation Committee having considered the qualifications of the applicant decided to ask her to produce a certificate from the Department of Education and Science in England in which the level of her qualifications will appear in relation to the known degrees of B.A. and M.A. of English Colleges and Universities.

(Sgd) A. Papadopoulos,
Chairman Qualifications Evaluation
Committee."

The applicant was informed of this decision by letter of the respondent Committee dated 11th December, 1980 (*exhibit* 1, Blue 116), and she replied by letter dated 27th January, 1981, (Appendix 'C' to the Opposition) wherein she stated that she was not in a position to produce other certificates than those she had been awarded during her two years postgraduate course in England or to seek evaluation from the Ministry of Education in England.

The respondent Committee met then on the 9th February, 1981, and decided that the applicant does not possess the qualifications required by the schemes of service for the post of School Master/Mistress Physical Education on Scale B.10 i.e. a post-graduate University title or equivalent qualification. The relevant minute reads as follows (Appendix 'D' to the Opposition):

"Μικελλίδου Γεωργία (ΠΜΠ. 3538), καθ. Σωμ. Ἀγωγῆς.

Μὲ αἴτησή της ἡ πιὸ πάνω καθηγήτρια ζητεῖ κατάταξη στὴν κλίμακα Β.10.

'Η 'Επιτροπὴ ἀφοῦ ἐξέτασε τὴν αἴτηση καὶ ἀφοῦ ἔλαβε ὑπόψη ὅλα τὰ στοιχεῖα καὶ ἔγγραφα ποὺ τέθηκαν ἐνώπιόν της, βρίσκει ὅτι ἡ αἰτήτρια δὲν ἔχει τὰ προσόντα ποὺ ἀπαιτοῦν τὰ Σχέδια 'Υπηρεσίας γιὰ τὴ θέση καθ. Σωμ. 'Αγωγῆς στὴν κλίμακα Β.10, δηλ. Μεταπτυχιακὸ πανεπιστημιακὸ τίτλο στὸν οἰκεῖο κλάδο ἢ ἰσοδύναμο προσόν.

'Η 'Επιτροπὴ ἐξέτασε ἐπίσης καὶ τὴν περίπτωση προαγωγῆς τῆς καθηγήτριας στὴν κλίμακα Β.10 καὶ βρῆκε ὅτι ἀπὸ τὰ προσόντα ποὺ τὰ Σχέδια 'Υπηρεσίας ἀπαιτοῦν γιὰ τὴν προαγωγὴ αὐτὴ, ἡ καθηγήτρια ἔχει 'πρόσθετα εἰδικὰ προσόντα ἀποκτώμενα διὰ τῆς ἐπὶ ἓν τοὐλάχιστον πλῆρες ἀκαδημαϊκὸν ἔτος μετεκπαιδεύσεως εἰς εἰδικὴν σχολὴν τοῦ ἐξωτερικοῦ .. ..' ἀλλὰ δὲν ἔχει ἀκόμη συμπληρώσει τοὐλάχιστον ἑνὸς ἔτους ὑπηρεσίαν ἐπὶ τοῦ ἀνωτάτου σημείου τῆς κλίμακος Β.6 καὶ ἐπομένως δὲν μπορεῖ πρὸς τὸ παρὸν νὰ προαχθεῖ στὴν κλίμακα Β.10".

("Mikellidou Georghia (PMP. 3538), Physical Education Schoolmistress.

The above schoolmistress is applying for emplacement on Scale B. 10.

The Committee, having considered the application and having taken into consideration all the material and and documents which have been emplaced before it, finds that the applicant does not possess the qualifications required by the schemes of service for the post of schoolmistress Physical Education on Scale B. 10, that is to say, post-graduate Universtiy title in the relevant branch or equivalent qualification.

The Committee considered also the question of promoting the school-mistress on Scale B. 10 and found that from the qualifications which are required by the schemes of service for this promotion, the schoolmistress possesses 'additional special qualifications acquired during a post-graduate course of a duration of at least one full academic year at a special school abroad.....', but she has not yet completed at least one year's service on the top scale of B. 6 and therefore she cannot at present be promoted to Scale B. 10").

The annulment of the aforesaid decision is sought on the

ground that the respondent Committee failed to carry out a due and proper inquiry in reaching the subject decision and also on the ground that same lacks sufficient and/or due reasonning and/or that the reasoning is vague and general and/or that it is contrary to the facts of the case as appearing in the relevant records.

Before dealing with the aforesaid contentions it is deemed proper to set out the scheme of service for the above post which so far as relevant reads:

"*School-master*

Scale B.10 £912 X 30 X 36 - 1428 (First Entry and Promotion Post).

Qualifications:

(a) For first appointment .....

.....

(h) *For Physical Education*

1. Leaving Certificate of a Six Year Greek School or another equivalent to a Secondary Education School in Cyprus or abroad (Please see Note (ii) (below).

2. Post-graduate University title in the relevant branch or an equivalent qualification.

3. .....

(iii) In order to face problems relating to the consideration of the equivalence or not of qualifications or educational institutions and to the evaluation of the level of qualifications or educational institutions for purposes of this scheme of service there is established a procedure as may be directed by the Ministry of Education by means of directions given from time to time.

For Promotion

1. To this post there is promoted a school-master on Scale B.6 if-

(a) He possesses the qualifications required for first

appointment to the post of school-master on Scale B. 3;

(b) He has completed at least one year's service on the top scale of Scale B.6."

The material clauses of the above scheme are paras. 2 & 3 (iii), and the reference of the applicant's application for emplacement to Scale B.10 to the Qualifications Evaluation Committee was done in pursuance of the provisions of the above para. 3 (iii).

Having set out the relevant facts of the case I turn now to the determination of the issues raised in this recourse. There is ample authority that the interpretation of a scheme of service and its application will not be interfered with by the Court, so long as such interpretation and application was reasonably open to the competent administrative organ; the application, however, by such organ of a scheme of service to the circumstances of each particular case has to be made after sufficient inquiry regarding all material considerations (see, *inter alia*, *Papapetrou* v. *The Republic*, 2 R.S.C.C. 61; *Georghiades* v. *The Republic* (1967) 3 C.L.R. 653; and *Tourpeki* v. *The Republic* (1973) 3 C.L.R. 592). Furthermore in determining whether a certain candidate, in fact, possesses the relevant qualifications the competent administrative organ is given a discretion and the Supreme Court can only examine whether such organ, on the material before it, could reasonably have come to a particular conclusion (see *Petsas* v. *The Republic*, 3 R.S.C.C. 60; *Phylachtou* v. *The Republic* (1973) 3 C.L.R. 444; *Zinieris No.* 1 v. *The Republic* (1975) 3 C.L.R. 13; and *Stylianou* v. *The Republic* (1980) 3 C.L.R. 11).

The question therefore which is posed, is whether the respondent Committee made a sufficient inquiry regarding all material considerations. In fact, the respondent Committee initiated the procedure for an inquiry as envisaged by the afore-quoted para. 3(iii) of the scheme of service. But before obtaining the requested opinion of the Evaluation Committee, it proceeded to decide itself on the application of the applicant.

In *Constantinidou & Others* v. *The Republic* (1976) 3 C.L.R. p. 98 the *sub judice* decision of the Public Service Commission was annulled because the Commission failed to carry out an

inquiry into the aspect of whether the certificate held by the applicant met the requirements of the relevant scheme of service. Furthermore in *Aristotelous* v. *The Republic* (1969) 3 C.L.R. 232, the said Commission had before it on the one hand an express statement of the Director of the Public Information Office that one of the interested parties did not possess the knowledge of English required by the relevant schemes of service; and on the other the statement of the officer representing the Ministry of Interior to the effect that the interested party's English was as good as the applicant's. The Court following the case of *Georghiades* v. *The Republic* (1967) 3 C.L.R. p. 65 held that it was incumbent on the Public Service Commission to satisfy itself that the interested party possessed the required knowledge of English and that since not the slightest attempt was made by the Commission to ascertain for itself whether the interested party satisfied the relevant scheme of service in respect of his knowledge of English, his appointment had to be annulled.

On the facts of the case under examination it is clear and I so hold, that the respondent Committee has not made the necessary effort to ascertain for itself whether the applicant satisfied the requirements of the relevant scheme of service and has not conducted the sufficiently necessary inquiry into a most material aspect of the matter. The fact that the Qualifications Evaluation Committee asked the applicant to produce a certificate from the Department of Education and Science in England in which the level of her qualifications would appear in relation to the known degrees of B.A. and M.A. of English Colleges and Universities and she did not do so, as herein above set out, did not exhonerate the respondent Committee to carry out itself the necessary inquiry into the matter.

It is established that a failure to make a due inquiry results, due to contravention of well settled principles of administrative law, in the invalidity of the relevant administrative action because the notion of "law" in Article 146.1 of the Constitution has to be construed as including the well settled principles of administrative law (see *Ioannides* v. *The Republic* (1972) 3 C.L.R. 318; *Tourpeki* (*supra*); *Antoniou* v. *The Republic* (1978) 3 C.L.R. 308; and *HadjiPaschali* v. *The Republic* (1980) 3 C.L.R. 101).

The *sub judice* decision must, therefore, be annulled because

the respondent Committee has failed to conduct the necessary for the purposes inquiry into all material aspects of the matter, a situation that renders the *sub judice* decision contrary to the well established principles of administrative law and thus contrary to law in the sense of Article 146.1 of the Constitution.

The *sub judice* decision must further be annuled for lack of due reasoning, more particularly because its reasoning is contrary to the contents of the official records, namely, the aforesaid recorded views of the Head of the Department of Physical Education as recorded in Note 14 of *exhibit* 1. It is settled principle of administrative law that an administrative decision, through which there results a situation unfavourable to the subject, must be duly reasoned and that the lack of due reasoning renders a decision contrary to Law viz. the aforesaid principle of administrative law and, also, in abuse and excess of powers (see, *inter alia*, *PEO* v. *Board of Cinematograph Film Censors* (1965) 3 C.L.R. 27, at p. 37; *Constantinides* v. *The Republic* (1967) 3 C.L.R. 7, at p. 14; *Papazachariou* v. *The Republic* (1972) 3 C.L.R. 486; *Eleftheriou & Others* v. *Central Bank* (1980) 3 C.L.R. 85); and it is also settled that a reasoning which is contrary to the contents of the administrative records is defective. (See "*Conclusions from the Jurisprudence of the Council of State in Greece* 1929–1959" p. 188, where under the general heading "Defective Reasoning", sub-heading "Reasoning Contrary to the contents of the official records", the following are stated:

"Ζ. Αἰτιολογία ἀντίθετος πρὸς τὰ στοιχεῖα τοῦ φακέλλου.

Εἶναι πλημμελὴς αἰτιολογία τῆς πράξεως, ἥτις οὐ μόνον δὲν στηρίζεται εἰς τὰ στοιχεῖα τοῦ φακέλλου, ἀλλ' ἀντιθέτως κλονίζεται ἐξ αὐτῶν ὡς ὅταν δέχεται ὡς ἀληθὲς πραγματικόν τι περιστατικόν, ἐνῶ ὑπὲρ τοῦ ἐναντίου μάχονται πλεῖστα στοιχεῖα τοῦ φακέλλου: 1368 (46) ἡ δὲν ἀναφέρει τὰ συγκεκριμένα πραγματικὰ περιστατικά, ἐφ' ὧν ἐστηρίχθη ἡ μόρφωσις ἀντιθέτου γνώμης: 328 (57)..... Ἐλλείπουσα αἰτιολογία δὲν δύναται νὰ συμπληρωθῇ ἐκ συγκρουομένων πρὸς ἄλληλα στοιχείων τοῦ φακέλλου: 377, 464 (45), 295 (54), διότι ἐν τῇ περιπτώσει ταύτῃ, ἡ ἀναπλήρωσις τῆς αἰτιολογίας ὑπὸ τοῦ ἀκυρωτικοῦ ἐνέχει οὐσιαστικὴν στάθμισιν μὴ ἐπιτρεπτὴν: 267 (45). Οὕτω π.χ. ἀναιτιολόγητος τυγχάνει ἀπόφασις ἐκδοθεῖσα ἐν ὄψει δύο ἀντιθέτων

γνωμοδοτήσεων άρμοδίως συνταχθεισῶν, μὴ μνημονεύουσα τὸν λόγον τῆς άπορρίψεως τῆς μιᾶς ἐκ τούτων: 1391 (48)".

("Z. Reasoning contrary to the material in the file.

The reasoning of an act is wrong which is not only based on the material in the file but on the contrary it is shaken by them, as when it accepts as true a real fact whilst there militate to the contrary many factors in the file 1368(46) or it does not mention the concrete real facts on which the formulation of a view to the contrary was based 328(57) .....Missing reasoning cannot be supplemented from conflicting with each other elements in the file: 377, 464(45), 295 (54), because in such a case the supplementing of the reasoning by the annulling (Court) contains an evaluation of the substance not permissible: 267(45). So, for example, a decision issued in view of two conflicting opinions competently drafted, and not mentioning the reason of rejecting one of them is not reasoned 1391 (48).)"

The above statement of the law found ample support in many case of this Court, such as for example, *Georghiou* v. *The Republic* (1976) 3 C.L.R. 74; *Ioannou* v. *The Republic* (1977) 3 C.L.R. 61, at p. 74; *Lardis* v. *The Republic* (1967) 3 C.L.R. 64; *Petrondas* v. *Attorney-General* (1969) 3 C.L.R. 214; *Iacovides* v. *The Republic* (1966) 3 C.L.R. 212.

A case more on the point is *Hadjidemetriou* v. *The Republic* (1980) 3 C.L.R. 20, where amongst the qualifications required for the post in question were a "good knowledge of English"; and in making the promotions complained of the Public Service Commission took, *inter alia*, into consideration a statement of the Head of the Department that the applicant had "a very poor knowledge of English". In the personal file of the applicant, however, there were statements that applicant's knowledge of English was good. The Court in annulling the *sub judice* decision held:

"The *sub judice* decision, therefore, has to be annulled because the reasons given by the respondent Commission in its minutes appear to be definitely contrary to the relevant administrative records and incompatible with factors which were taken into account by it. Furthermore, in view of these differences in the contents of these records, the

respondent Commission does not appear to have carried out the due and proper inquiry which was called for in the circumstances of the case and this failure constitutes a ground for anulling the *sub judice* decision also".

In this case, as already stated, in the relevant administrative records there was an express statement on behalf of the Head of the Department of Physical Education that the qualifications of the applicant satisfied the requirements of the scheme of service and yet the respondent Committee proceeded to find, as it did, without giving cogent reasons for so finding and thus its decision is contrary to the contents of the official records. The *sub judice* decision must, therefore, be annulled on this ground too, namely, for lack of due reasoning which renders it contrary to the well established principles of administrative law and thus contrary to law in the sense of Article 146.1 of the Constitution.

Further the reasoning of the *sub judice* decision was given in a very general and sweeping manner and this general and sweeping manner in which the reasoning was given constitutes also a ground for the annulment of the *sub judice* decision. In *Sophocleous No.* 1 v. *The Republic* (1972) 3 C.L.R. 56 at pp. 60-61 the following were stated:

"In accordance with the well established principles of administrative law, the formulation of the reasoning of a decision reached in exercise of discretionary powers and which is subject to judicial control, must be clear; and it is clear so long as the concrete factors upon which the administration based its decision for the occasion under consideration are specifically mentioned in such a manner as to render possible its judicial control. On the other hand the reasoning is considered vague if it is given in a general and vague manner without stating the facts upon which the administration based its decision (See Economou, "The Judicial Control of Administrative Power," 1965, p. 235).

In the case before me the vagueness of the reasoning of the *sub judice* decision has not been cured by the material in the file, as there is nothing to show how these guiding principles contained in *exhibit* 6 were applied to the case

of the applicant who had only been transferred to Neapolis Gymnasium two years earlier. Consequently the decision remains as insufficiently reasoned and contrary to the aforesaid principles of administrative law and the implied directive to all authorities contained in Article 146 of our Constitution to reason duly their decision (*PEO* v. *Board of Cinematograph Films Censors & Another* (1965) 3 C.L.R. 27)".

There is still a further reason for which the *sub judice* decision must be annulled. The respondent Committee referred the application of the applicant to the Qualifications Evaluation Committee for its opinion. This is an organ established under the provisions of paragraph 3(iii) of the Scheme of Service herein above set out as part of a procedure directed by the Ministry of Education in order "to face problems relating to the consideration of the equivalence or not of qualifications or educational institutions and to the evaluation of the level of qualifications or educational institutions for the purpose of this Scheme of Service".

Before, however, receiving such opinion the respondent Committee proceeded itself to decide on the matter and so it contravened the established procedure which was set up for resolving the issue. This contravention constitutes a ground of annulment as being a violation of form which in the circumstances was a substantial one.

No doubt the violation of a prescribed by the law form relating to the issuing of an administrative act as it is the case here, in view of the provisions of para 3(iii) of the scheme of service causes its annulment provided that the omitted form is considered as a substantial one. Moreover, the nonreceiving of the prescribed by the Law prior opinion of a collective organ, constitutes an omission of a substantive form (See The Conclusions of the Jurisprudence of the Greek Council of State p. 266 etc.)

But even, the voluntary submission of the administration of its acts or decisions to certain forms is not devoid of legal consequences. Once the administration has submitted itself to certain forms, although not obliged by Law to do so, it must thereafter be bound by them, in the sense that, whenever these

freely introduced forms are found as not in accordance with the legal principles regulating them as such, it cannot be validly raised by the administration the objection that their observance did not emanate from a requirement of the Law (see also *Stassinopoulos* (*supra*) p. 224).

As stated by Stassinopoulos in his textbook "The Law of The Administrative Acts" (1951) p. 224. "Opinion is the expression of the view of the organ, usually collective, which has as a rule technical knowledge, on the expediency or the legality of the executive administrative act which is about to be taken. As a rule the law is contented to the enlightment of the appropriate organ by the giving of this technical view and it entrusts to it that it will further attempt or not the act, even contrary to the opinion expressed. There exists then the simple opinion the formulation of which has as a consequence that the deciding organ has, in any event to cause and hear the opinion but is not bound to follow it. Yet, in the case of disagreement of the act to be taken to the opinion, as a rule, the obligation for reasoning arises".

As already stated the *sub judice* decision has to be annulled on this ground also.

In the result this recourse succeeds, the *sub judice* decision is annulled but in the circumstances there will be no order as to costs.

Sub judice decision annulled. No order as to costs.