

1984 January 14

[TRIANTAFYLIDES, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

PANAYIOTIS TSIKKINIS,

*Applicant.*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF COMMUNICATIONS AND WORKS,

*Respondent.*

(Case No. 42/80).

---

*Administrative Law—Administrative acts or decisions—Reasoning  
—Cannot be supplemented subsequently by material which was  
not available to the organ concerned at the time the sub judice deci-  
sion was reached by it—Rejection of application for a licence  
5 for the possession and operation of wireless radio equipment,  
for “security reasons”—Obscure reference to “security reasons”  
too general and vague—Sub judice decision annulled for lack  
of due reasoning.*

10 When the applicant, a radio electrician, applied to the res-  
pondent for a licence for the possession and operation by him,  
on an amateur basis, of wireless radio equipment, he was in-  
formed that it was impossible to grant him such a licence, and  
when he asked to be informed of the reasons for which the licence  
had been refused he was informed that his application had been  
15 rejected for security reasons. Hence this recourse. In the  
relevant administrative records there was a letter by the Chief  
of Police, which was written after the filing of the recourse,  
wherein there appear reasons for the sub judice refusal.

20 *Held*, that the obscure reference to “security reasons” are  
too general and vague, in the circumstances of the present case,  
and consequently, the sub judice decision suffers from lack  
of due reasoning; that no relevant administrative record exists

from which the reasoning of the sub judge decision may be derived, except the letter of the Chief of Police; that such letter was written after the filing by the applicant of the present recourse and after the second letter to the applicant; that the reasoning of an administrative decision cannot be supplemented subsequently by material which was not available to the organ concerned at the time when such decision was reached by it; and that accordingly the sub judge decision has to be annulled on the ground of lack of due reasoning. 5

*Sub judge decision annulled.* 10

Cases referred to:

*Vassiliou v. The Republic* (1982) 3 C.L.R. 220 at p. 228, 229;

*Sofocleous v. The Republic* (1982) 3 C.L.R. 786 at p. 796;

*Petrides v. The Republic* (1983) 3 C.L.R. 216 at p. 220;

*Decisions of the Greek Council of State Nos.:* 1412/64, 1785/64, 1140/65, 2162/65, 782/68, 3624/72 and 655/75. 15

#### Recourse.

Recourse against the refusal of the respondent to grant applicant a licence for the possession and operation by him, on an amateur basis, of a wireless radio equipment. 20

*Chr. Pourgourides*, for the applicant.

*A. Papasavvas*, Senior Counsel of the Republic, for the respondent.

*Cur. adv. vult.*

TRIANTAFYLLIDES P. read the following judgment. By the present recourse the applicant challenges the decision of the respondent Minister of Communications and Works by means of which his application for a licence for the possession and operation by him, on an amateur basis, of wireless radio equipment was dismissed. 25  
30

The applicant is a radioelectrician and on the 16th June 1979 he applied for the licence concerned.

By letter dated the 11th December 1979 he was informed that it was impossible to grant to him such licence.

As in the said letter there were not stated the reasons for which the licence had been refused counsel for the applicant asked, by 35

a letter dated the 10th January 1980, to be informed of such reasons.

On the 3rd March 1980 the applicant was informed that his application had been rejected for security reasons.

5 As it appears from the relevant administrative records, which were placed before the Court, the Ministry of Interior, acting on the basis of the views of the Police, objected to the grant of the licence in question to the applicant. In a relevant letter, dated the 25th April 1980 and addressed by the Chief of Police  
10 to the Director-General of the Ministry of Interior, it is stated that there was information that the applicant had been involved in 1973 in subversive actions against the Government and, therefore, for security reasons he was considered to be unsuitable to have an amateur wireless licence, and, also, that the work-  
15 shop of the applicant did not afford enough security for the safe keeping of wireless apparatus.

It has been submitted by counsel for the applicant that the sub judge decision is not duly reasoned and that there do not exist any relevant administrative records from which the reason-  
20 ing for such decision may be derived (see, in this respect, inter alia, *Vassiliou v. The Republic*, (1982) 3 C.L.R. 220, 228, 229, *Sofocleous v. The Republic*, (1982) 3 C.L.R. 786, 796 and *Petrides v. The Republic*, (1983) 3 C.L.R. 216, 220).

I am of the view that the reasons which are contained in the  
25 letter of the 3rd March 1980, which was addressed to the applicant by the Ministry of Communications and Works, namely, the obscure reference to "security reasons", are too general and vague, in the circumstances of the present case, and consequently, the sub judge decision suffers from lack of due reason-  
30 ing.

No relevant administrative record exists from which the reasoning of the sub judge decision may be derived, except the above referred to letter of the Chief of Police dated 25th April 1980. It has to be observed, however, that such letter  
35 was addressed to the Ministry of Interior after the filing by the applicant of the present recourse on the 7th March 1980 and after the aforesaid letter to the applicant of the 3rd March 1980; and the reasoning of an administrative decision cannot

be supplemented subsequently by material which was not available to the organ concerned at the time when such decision was reached by it (see the Decisions of the Council of State in Greece in cases 1412/1964, 1785/1964, 1140/1965, 2162/1965, 782/1968, 3624/1972, 655/1975).

5

In the light of all the foregoing I am of the opinion that the sub judice decision has to be annulled on the ground of lack of due reasoning.

Of course, the respondent Ministry of Communications and Works is at liberty, when reaching a new decision regarding the application of the applicant for the licence in question, to consider all relevant material now before it.

10

I will not make any order as to the costs of this recourse.

*Sub judice decision annulled. No order as to costs.*

15