

1985 February 20

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

RAFOUL YOUSSEF SALEM,

Applicant,

v.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF INTERIOR,
2. THE MIGRATION OFFICER,

Respondents.

(Case No. 269/84).

Recourse for annulment—Abatement—Recourse against detention and deportation orders—Revocation of said orders—Whether recourse abated due to having been deprived of its subject-matter.

5 The above recourse was directed against an order for the detention of applicant and an order for his deportation from Cyprus which were issued under section 14 of the Aliens and Immigration Law, Cap. 105. Both these orders were revoked on the 23rd May, 1984.

10 *On the question whether the recourse has been abated in view of the revocation of the said orders:*

15 *Held,* that as the sub judge detention order appears to have been executed and as its execution was interwoven with the execution of the sub judge deportation order, which, in the end, was not completed, this is not a case in which it is proper to say that this recourse has been abated due to having been deprived of its subject-matter, especially as it seems that the aforementioned two orders while they were operative have brought about consequences in relation to which, if the applicant is successful in this recourse,
20 he might be entitled to seek redress under Article 146.6 of the Constitution.

Cases referred to:

Christodoulides v. Republic (1978) 3 C.L.R. 189;

Agrotis v. Republic (1983) 3 C.L.R. 1397;

Payiatis v. Republic (1984) 3 C.L.R. 1239.

Recourse.

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Recourse against an order for the detention of applicant and against an order for his deportation from Cyprus issued under section 14 of the Aliens and Immigration Law, Cap. 105.

L. Papaphilippou, for the applicant.

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A. Vladimirov, for the respondents.

Cur. adv. vult.

TRANTAFYLIDIS P. read the following decision. This recourse was filed by the applicant against, in effect, an order for his detention which was issued under section 14 of the Aliens and Immigration Law, Cap. 105, and an order for his deportation from Cyprus which was issued also under the said section 14 of Cap. 105. Both these orders were issued on the 22nd May 1984 by the Director-General of the Ministry of Interior, who signed them on behalf of the Chief Immigration Officer.

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Both the said orders were revoked on the 23rd May 1984 and in view of this development it has been submitted by counsel for the respondents that the present recourse has been abated.

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As it appears from an affidavit sworn by the applicant on the 25th May 1984 the applicant was, apparently before the orders in question were revoked, detained by the police on the 23rd May 1984 and was taken from his home in Nicosia to Larnaca, but at the last moment his deportation from Larnaca airport was abandoned and he was taken back to Nicosia and allowed to go home.

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As the sub judice detention order appears to have been executed and as its execution was interwoven with the execution of the sub judice deportation order which, in the

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end, was not completed, I am of the view that this is not a case in which it is proper to say that this recourse has been abated due to having been deprived of its subject-matter; especially as it seems that the aforementioned two orders
5 while they were operative have brought about consequences in relation to which, if the applicant is successful in this recourse, he might be entitled to seek redress under Article 146.6 of the Constitution. Useful reference may be made, in this respect, to, inter alia, *Christdoulides v. The Republic*, (1978) 3 C.L.R. 189, *Agrotis v. The Republic*, (1983)
10 3 C.L.R. 1397 and to the Ruling of 12th November 1984 in *Payiatas v. The Republic*, (R.A. 368, not reported yet).*

Consequently, this recourse has to be heard on its merits.

Order accordingly.

* Now reported in (1984) 3 C.L.R. 1239.