

1986 May 24

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

LIBERTY P.L.C., OF ENGLAND,

*Applicants,*

v.

THE REGISTRAR OF TRADE MARKS,

*Respondent.*

*(Cases Nos. 34/85, 35/85).*

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*Reasoning of an administrative act or decision—Must be clear and adequate in order to enable the Court to exercise judicial control over the act or decision—Arguments of counsel—Cannot cure the lack of reasoning.*

By means of this recourse the applicants challenge the decision of the respondent, whereby their applications for the registration of the word "Liberty" as a trade mark were turned down, on the ground of similarity to other already registered trade marks. 5

*Held, annulling the sub judice decision:* (1) An administrative decision, especially if unfavourable to the citizen affected by it, must contain clear and adequate reasoning in order to enable an administrative Court to exercise control over it. 10

(2) The sub judice decisions are devoid of adequate reasoning. Such lack of reasoning renders judicial control impossible, as it prevents ascertainment of the reasons for which the divers contentions of applicants in support of their applications were not accepted. Arguments of counsel cannot cure the lack of reasoning. 15 20

*Sub judice decisions annulled.*

Cases referred to:

*Michael v. The Republic* (1984) 3 C.L.R. 1364:

*Themistocleous v. The Republic* (1985) 3 C.L.R. 1070:

5     *Morris v. The Registrar of Trade Marks* (1985) 3 C.L.R.  
       732.

**Recourses.**

Recourses against the refusal of the respondent to accept the registration of the word "Liberty" as a trade mark.

*Chr. Theodoulou*, for the applicants.

10     *St. Ioannidou (Mrs.)*, for the respondent.

*Cur. adv. vult.*

15     TRIANTAFYLIDIS P. read the following judgment. By means of these two recourses the applicants are complaining against the refusal of the respondent Registrar of Trade Marks to accept the registration of the word "Liberty" as a trade mark.

20     The applicants are a company registered in the United Kingdom and on the 31st December 1982 they applied by means of applications Nos. 23334 and 23335 for the registration of the word "Liberty" as a trade mark.

25     On the 24th January 1983 an objection was raised that the proposed trade mark contravened the provisions of section 14(1) of the Trade Marks Law, Cap. 268, because it was considered to be similar to other already registered trade marks, to which it is not necessary to refer in detail in this judgment.

The applicants applied then for a hearing by the respondent, which took place on the 28th September, 1983.

30     At such hearing counsel appearing for the applicants advanced before the respondent several arguments in support of the dissimilarity of the proposed trade mark with the other already registered trade marks on which there had been based the objection to the applied for by the applicants registration.

By its sub judge decisions, which were reached on the same day, the respondent found that the objections to the applications of the applicants could not be waived and his refusal to accept such applications was communicated to their counsel on the 7th November 1983.

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The sub judge decisions, as appearing in the relevant administrative records and as communicated to the applicants, are devoid of adequate reasoning.

It is well settled that an administrative decision, and especially if it is unfavourable for the citizen affected by it, must contain clear and adequate reasoning in order to enable an administrative Court to exercise judicial control over it (see, in this respect, inter alia, *Michael v. The Republic*, (1984) 3 C.L.R. 1364, 1376 and *Themistocleous v. The Republic*, (1985) 3 C.L.R. 1070, 1081).

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In the present instance the complete lack of reasoning for the complained of decisions renders judicial control over them impossible as it prevents this Court from ascertaining the exact reasons for which the divers contentions of counsel for the applicants in support of their applications were not accepted by the respondent; and, of course, arguments advanced later by counsel for the respondent before this Court in defending the sub judge decisions of the respondent cannot cure the lack of reasoning for such decisions (see, inter alia, *Morris v. The Registrar of Trade Marks*, (1985) 3 C.L.R. 732, 737).

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In the result the present recourses succeed and the sub judge decisions are annulled; but I shall not make any order as to the costs of these proceedings.

*Sub judge decisions annulled.*  
*No order as to costs.*

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