

1988 April 20

[A. LOIZOU, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

NICOS KYRIACOU MYLIOTIS,

*Applicant*

v.

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF FINANCE,

*Respondent*

(Case No. 205/88)

5 *Government Lotteries—The Lotteries Law, Cap. 74, as amended by Law 2  
74, section 5—The Government Lotteries Regulations 1956 - 1979, Re  
9—Not ultra vires the law—The time limit for paying winning tickets with  
secret numbers—It was fixed by the Director of Lotteries under Reg. 9  
As the refusal to pay outside the time limit is based on the law and  
Regulations, it is outside the control of an Administrative Court, so long  
there had not been proved misconception of law or fact or abuse or excess  
of power.*

10 *Constitutional Law—Torture or inhuman or degrading punishment or  
treatment—Constitution, Art. 8—It has no bearing on a refusal to pay  
winning lottery ticket.*

*Constitutional Law—Right to address the authorities—It has no bearing on  
refusal to pay a winning lottery ticket.*

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*(Note: This is an English translation of the judgment in Greek appearing at pp. 8  
- 826 ante.*

The facts of this case appear sufficeintly from the Judgment of the Court.

*Recourse dismissed.  
No order as to costs.*

*Cases referred to:*

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*Ioannou v. Republic* (1983) 3 C.L.R. 80;

*Milliotis v. Republic* (1986) 3 C.L.R. 1341.

**Recourse.**

Recourse for the immediate amendment of the regulations governing the payment of tickets of the Government lottery of double chance. 10

Applicant appeared in person.

*P. Clerides*, for the respondent.

*Cur. adv. vult.*

A. LOIZOU P. read the following judgment. By the present recourse the applicant who prepared and conducted it to the end in person, seeks from the Court the following reliefs: 15

"(a) Immediate amendment of the relevant Regulations which govern the payment of ticket of the Government lottery of double chance in a manner bringing them in line with the best known interest of both contracting parties, namely the authority of the Government lottery on the one, and the applicant. 20

(b) The Regulations are obviously one-sided, contrary to the rules of natural justice, outside the reality and consequently cannot be applied, and in the last analysis constitute an invention of the devil for defrauding not only the applicant but all his colleagues and for that reason they must buried for the re- 25

storation of the order and the restoration of justice."

5 The applicant is an agent of Government lotteries for over  
twenty years, and he sells lottery tickets of "double chance", as  
from the commencement of their circulation in 1972. On the 9th  
10 March, 1987 he presented to the appropriate Authorities of the  
State lottery for payment seven tickets with secret numbers of the  
draw No. 51/86 which won the total amount of £5.25 cents. As  
the time limit for the presentation for payment of these tickets had  
expired in accordance with the relevant Regulations on the 5th  
15 January 1987, the appropriate Authority refused to pay the tick-  
ets which the applicant presented.

15 The Government Lotteries Regulations 1956 to 1979 have  
been made by virtue of the provisions of section 5 of the Lotter-  
ies Law, Cap. 74 as amended by Law No. 24 of 1974. The time  
limit for the payment of tickets of the State lottery is governed by  
the provisions of paragraph (b) of Regulation 9.

20 The time limit for the presentation for payment of the tickets  
with the winning secret numbers of the draw No. 51/1986, which  
had been fixed by the Director of lotteries under the provisions of  
the aforesaid paragraph ended on the 5th January 1987. This time  
limit was set on the special pamphlet with which all the agents  
and sellers of Government Lottery tickets had been supplied. Al-  
though there had been raised and argued on behalf of the respon-  
25 dent a number of preliminary objections, I intend once the appli-  
cant is not a lawyer to ignore them without this suggesting that I  
dismiss them, and to proceed in the examination of the recourse  
on the merits because this will satisfy basically the claim of the  
applicant and in a wider sense his prayer for justice.

30 In previous recourses this Court had the occasion to examine  
other aspects of the Lotteries Laws and the Regulations made by  
virtue of these provisions. In the case of *Annie Ioannou v. The  
Republic* (1983) 3 C.L.R. 80, the Full Bench of this Court up-  
held the first judgment which was published with the same title in  
the Cyprus Law Reports (1982) 3 C.L.R. 80 concluding that

Regulations 9 and 10 were intra vires section 5 of the Lotteries Law. In his judgment in another case of the present applicant published as *Nicos Miliotis v. The Republic* (1986) 3 C.L.R. 1341, Stylianides J. , dismissed his recourse against the refusal of the respondent to pay him the value of two lottery tickets which won seventy cents which were presented after the last day fixed for such presentation, on the ground that the recourse was out of time. 5

In the present case the applicant in his written address puts forward the allegation that the said Regulations are "obviously one-sided and contrary to the Rules of Natural Justice" and that the administration refused to discharge the obligations it had assumed towards him and it is argued that the ticket with the secret number which wins, is paid by the lottery ticket seller, that is the lottery ticket seller has the obligation to pay the ticket. 10 15

If one part of the aforesaid grounds could be considered as suggesting that the Regulations in question were made ultra vires the Law, this point has been decided by the Full Bench in the case of *Annie Ioannou* (supra) to which I have already referred and there is no need to proceed any further. It is worth noting, however, that the Government Lottery Regulations have been made by virtue of the provisions of section 5 of the Lotteries Law, and the fixing of the time limit of twenty-one days for the payment of winning tickets with secret numbers was made by the Director of Lotteries, by virtue of the authority given to him by Regulation 9. This time limit was fixed in 1972 when this type of lottery of "double chance" was introduced for the first time. The lottery agent or seller has no authority or obligation under the law to pay lottery tickets outside the time limit. Moreover the refusal of the appropriate organ to pay outside the time limit was made on the basis of the authority given by the Law and the Regulations and as such is outside the rule of the control of the Administrative Court, so long as there had not been proved misconception of Law or fact, abuse or excess of power and abuse or excess in the exercise of discretionay powers. 20 25 30 35

On the other hand the legal ground which is raised by the applicant that the relevant Regulations to which I have referred are contrary to Articles 8 and 29 of the Constitution, cannot stand. Article 8 of the Constitution provides that "no person shall be  
5 subjected to torture or inhuman or degrading punishment or treatment". However wide interpretation may be given to this provision, same cannot be considered that it has any bearing on the refusal of the respondent to pay outside the time limit winning lottery tickets. Its value if any, could only be considered from the  
10 point of view of authorities.

On the other hand Article 29 can have no bearing whatsoever with the complaint of the applicant, as same refers to the right of a person to petition any competent authority, "to address written requests or complaints and to have them attended to and decided  
15 expeditiously" as regards the matters raised.

For all the above reasons the recourse of the applicant is dismissed. Taking, however, into consideration his personal circumstances as described in the case which has been published in Volume 1983 (3) C.L.R. 1341, at p. 1352 I make no order as to  
20 costs.

*Recourse dismissed.  
No order as to costs.*