

1976 October 18

{TRIANTAFYLIDES, P., HADJIANASTASSIOU, MALACHTOS, JJ.}

IOANNIS YEDEOU,

Appellant.

v.

THE REPUBLIC,

Respondent.

(Criminal Appeal No. 3736).

Criminal Law—Sentence—Unlawful possession of a rifle and ammunition—Two years' and nine months' imprisonment, respectively—Need to punish with severity such offences in view of the circumstances prevailing today in our country—Appeal dismissed

5 *Firearms and ammunition—Unlawful possession—Sentence—Need to punish with severity such offences in view of the circumstances prevailing today in our country.*

The appellant pleaded guilty to the offences of unlawful possession of a rifle and of ammunition and was sentenced to
10 concurrent terms of imprisonment of two years and nine months, respectively. He was a first offender and enjoyed a good reputation in his village. His version—which could not be
verified, but which the trial Court does not seem to have rejected—was that he got possession of the rifle and the ammunition
15 during a period of intercommunal fighting, which erupted as a result of the Turkish invasion of Cyprus in July 1974, and he had kept them ever since, under his bed, where they were found when his house was searched by the police.

The trial Court in imposing sentence stressed that the rule
20 of law must prevail if our country is going to be saved from the disastrous consequences of the 1974 coup d'état and the Turkish invasion that ensued; and that the unlawful possession of arms was a definite obstacle to the rule of law. For this reason the trial Court thought that, in view of the circumstances
25 prevailing today in our country, offences such as those committed by appellant have to be punished with severity.

Upon appeal against sentence:

Held, dismissing the appeal, we fully agree with the trial Court that those who continue to keep unlawfully in their possession arms and ammunition, in spite of the repeated appeals of the Government to surrender them to the police, do so at their own peril and are not justified in complaining that they have been severely punished by the courts. 5

Appeal dismissed.

Cases referred to:

Politis v. The Police (1973) 2 C.L.R. 211. 10

Appeal against sentence.

Appeal against sentence by Ioannis Yedeou who was convicted on the 31st May, 1976, at the Assize Court of Limassol (Criminal Case No. 6675/76) on two counts of the offences of unlawful possession of a rifle, contrary to sections 3 (1) (a) (2) (b) and 28 of the Firearms Law, 1974 (Law 38/74) and of unlawful possession of ammunition, contrary to section 4 (4) (d) (5) (a) (b) of the Explosive Substances Law, Cap. 54 as amended by s. 2 of Law 21/70 and was sentenced by Loris, P.D.C., Chrysostomis and Korfiotis, D. JJ. to concurrent terms of imprisonment of two years and nine months, respectively. 15 20

Ch. Loizou, for the appellant.

S. Nicolaidis, Senior Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by: 25

TRIANTAFYLLIDES P.: The appellant was sentenced to concurrent terms of imprisonment of two years and nine months, respectively, by an Assize Court in Limassol, after he had pleaded guilty to the offences of unlawful possession of a rifle and of ammunition of the same calibre as the rifle. 30

Counsel for the appellant has contended that, in the light of all relevant considerations, his client has been punished in a manifestly excessive manner; he has asked us to take particularly into account the personal circumstances of the appellant, as they appear from a social investigation report which had been placed before the Assize Court, the fact that he was a first offender and enjoyed a good reputation in his village, and, 35

also, the fact that according to the version of the appellant—
which could not be verified, but which the trial Court does not
seem to have rejected—he got possession of the rifle and the
ammunition during a period of intercommunal fighting, which
5 erupted as a result of the Turkish invasion of Cyprus in July
1974, and he had kept them ever since, under his bed, where
they were found when his house was searched by the police.

It has been urged upon us that undue weight was given by
the trial Court to the deterrent aspect of sentencing, and counsel
10 for the appellant went so far as to submit that this was a proper
case for a suspended sentence of imprisonment.

In dealing with appeals against sentence our powers have to
be exercised within certain well defined limits (see, *inter alia*.
Politis v. The Police, (1973) 2 C.L.R. 211) which we need not
15 repeat in this judgment. It is quite true that in each case the
sentence should be such as to fit both the offence and the
offender, and that due consideration must be given to all relevant
circumstances, but it is open to the trial Court, which is primarily
responsible for assessing sentence, to attribute, within the limits
20 of the proper exercise of its discretion, rather more weight to
one factor than to another; and, in the present case, the trial
Court, having taken duly into account the personal circum-
stances of the appellant and the fact that he was a first offender,
as well as the plea of the appellant for a suspended sentence of
25 imprisonment, and having decided to show all appropriate
leniency—as it has, indeed, been stated in its judgment—it
stressed the following:—

“We have repeatedly warned against the unlawful posses-
sion of arms and ammunitions from this bench; we have
30 made it abundantly clear that the rule of law must prevail
if this country is going to be saved from the disastrous
consequences of the coup and the Turkish invasion that
ensued; and the unlawful possession of arms is a definite
obstacle to the rule of law. There is no reason for any
35 unauthorized person to possess arms. He who breaks the
law and takes the burden upon him to keep unlawfully
arms and ammunitions, must meet the consequences.”

The above passage from the judgment of the trial Court
indicates clearly the reason for which it thought that, in view

of the circumstances prevailing today in our country, offences such as those committed by the appellant have to be punished with severity; and we fully agree with the trial Court that those who continue to keep unlawfully in their possession arms and ammunition, in spite of the repeated appeals of the Government to surrender them to the police, do so at their own peril and are not justified in complaining that they have been severely punished by the Courts. 5

Having taken everything into account, we find ourselves unable to interfere with the sentences imposed on the appellant and this appeal is, therefore, dismissed. 10

Appeal dismissed.