

1966  
Jan. 26,  
April 30

ANDREAS TSOURI  
(No. 1)  
and  
THE COUNCIL OF  
REGISTRATION OF  
ARCHITECTS AND  
CIVIL ENGINEERS

[TRIANTAFYLIDIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE  
CONSTITUTION

ANDREAS TSOURI (No. 1),

*Applicant,*

and

THE COUNCIL OF REGISTRATION OF  
ARCHITECTS AND CIVIL ENGINEERS,

*Respondent.*

(Case No. 13/65).

*Architects and Civil Engineers—“Architects by profession”—  
Licence necessary—Section 9(1)(A) of the Architects and  
Civil Engineers Law, 1962 (Law No. 41 of 1962)—Applica-  
tion for such licence—Refused, and rightly refused, by the  
respondent Council on the sole ground that the said application  
was not submitted to the Council within the time-limit laid  
down by section 9(2) of the Law—There is nothing unconsti-  
tutional in the said provision in the said sub-section (2) of  
section 9 (see, further, under Constitutional Law, herebelow)  
—Law No. 41 of 1962 (supra) sections 7, 8, 9(1)(A) and  
(B),(2).*

*Constitutional Law—Articles 25 and 28 of the Constitution—  
The Architects and Civil Engineers Law, 1962 (Law No.  
41 of 1962)—Provision in section 9(2) of the Law pres-  
cribing a time-limit for the submission to the Council of  
Registration for Architects and Civil Engineers for a licence  
as an “architect by profession” under section 9(1)(A) of  
the Law, not unconstitutional—Such provision is necessary  
in the interests of public safety and in the public interest  
generally in the sense of Article 25, paragraph 2, of the  
Constitution—There is nothing discriminatory therein, either,  
against those coming within the ambit of section 9(1) of the  
Law, as compared to those coming within the ambit of section  
7 of the same Law—Article 28 of the Constitution.*

By this recourse the applicant challenges the decision of the respondent Council refusing him a licence as an “architect by profession” under section 9(1)(A) of the Law No. 41 of 1962 (*supra*) on the ground that his application for licensing was made on the 25th September, 1964, *i.e.* it was made after the expiration prescribed for the pur-

pose by sub-section (2) of section 9 of the Law. Such period is the period of twelve months from the date of the coming into force of the said Laws which came into force on the 30th May, 1962.

It has been applicant's contention that the said provisions of sub-section (2) of section 9 are unconstitutional as being contrary to Article 25 and/or 28 of the Constitution.

Article 25 of the Constitution provides:

"25.1. Every person has the right to practise any profession or to carry on any occupation, trade or business.

2. The exercise of this right may be subject to such formalities, conditions or restrictions as are prescribed by law and relate exclusively to the qualifications usually required for the exercise of any profession or are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals.....or in the public interest....."

By Article 28 of the Constitution it is provided:

"28.1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of .....or on any ground whatsoever, unless there is an express provision to the contrary in this Constitution".

"3.....4....."

The Court in dismissing the recourse:-

*Held*, (1) I am of opinion that it was properly open to the legislature to adopt a provision such as sub-section (2) of section 9 of the Architects and Civil Engineers Law, 1962 (Law No. 41 of 1962), as being necessary in the interests of public safety and in the public interest generally, in the sense of paragraph 2 of Article 25 of the Constitution (*supra*).

(2) Furthermore, I cannot find that any discrimination

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is made by means of the said sub-section (2) against those coming within the ambit of section 9(1) as compared to those coming within the ambit of section 7 of the same Law—where no provision such as sub-section (2) exists, because the existence of sub-section (2) in section 9 and the absence of similar provision from section 7, amount, in effect to the making of a reasonable differentiation arising out of the inherent nature of things, in view of the fact that those affected by section 9 are a dying class, whereas those to whom section 7 applies are those to become entitled to be registered as architects (or civil engineers) in the future, by obtaining the necessary academic qualifications.

*Application dismissed.*

*No order as to costs.*

### Recourse.

Recourse against the decision of the Respondent Council whereby applicant was refused a licence as an architect by profession under section 9(1) (A) of the Architects and Civil Engineers Law, 1962 (Law 41/62).

*A. Pantelides*, for the Applicant.

*L. Demetriades*, for the Respondent.

*Cur. adv. vult.*

The following Decision was delivered by:—

TRIANAFYLLIDES, J.: By this recourse Applicant complains against the decision of the Respondent Council, communicated to him by letter dated the 11th November, 1964 (*exhibit 1*) and refusing him a licence as an architect by profession under section 9(1) (A) of the Architects and Civil Engineers Law, 1962 (Law 41/62).

Applicant's application for licensing, as above, was rejected by the Respondent on the ground that it was made on the 25th September, 1964, i.e. it was made after the expiration of the period prescribed for the purpose by means of sub-section (2) of section 9 of Law 41/62. Such period is the period of twelve months from the date of the coming into force of Law 41/62; and it came into force on the 30th May, 1962.

It has been Applicant's contention that the provisions of subsection (2) of section 9, which read as follows:—

“(2) Applications under subsection (1) (A) or subsection (1) (B) (a) of this section shall be submitted within a period of twelve months from the date of the coming into force of this Law”

are unconstitutional as being contrary to Article 25 of the Constitution.

The validity of any other of the provisions of section 9 is not in issue in this recourse.

The said subsection (2) is a provision laying down a formality or condition regarding the right to practise the professions of architecture or civil engineering, as such right is regulated by the provisions of subsection (1) of section 9.

Bearing in mind, *inter alia*,:—

(I) that for the purpose of determining with sufficient certainty the factual aspects of the possession of the qualifications prescribed under subsection (1) (A) (ii) and subsection (1) (B) (a) (ii) of section 9 it is obviously necessary that those claiming to be licensed under subsection (1) of section 9 should come forward as reasonably early as possible, so that the Respondent Council may be able to examine such aspects while the relevant events are still recent and material evidence has not yet perished through the efflux of time, and

(II) the need to inform, the appropriate authorities for building control and the public at large, reasonably soon after the coming into operation of Law 41/62, as to who are the persons entitled, under one style or another, to practise under Law 41/62 the professions of architecture or civil engineering (see also in this respect section 8 of Law 41/62),

I am of the opinion that it was properly open to the Legislature to adopt a provision such as subsection (2) of section 9, as being necessary in the interests of public safety and in the public interest generally, in the sense of paragraph 2, of Article 25 of the Constitution.

Furthermore, I cannot find that any discrimination is made, by means of the said subsection (2), against those coming within the ambit of section 9(1), as compared to those coming within the ambit of section 7 of the same Law—where no provision such as subsection (2) exists—because,

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in my opinion, the existence of subsection (2) in section 9 and the absence of a similar provision from section 7 amount, in effect, to the making of a reasonable differentiation arising out of the inherent nature of things, in view of the fact that those affected by section 9 are a dying class, whereas those to whom section 7 applies are those to become entitled to be registered as architects or civil engineers, at any time in the future, by obtaining the necessary academic qualifications.

For all the above reasons the contention that subsection (2) of section 9 is unconstitutional fails.

*Order in terms.*

*Court:* I would like to hear counsel on the fate of this recourse in the light of the Decision just given.

*Mr. Pantelides:* After this Decision I do not see how the recourse can proceed further.

*Mr. Demetriades:* I agree. Once Applicant had to apply within the time-limit laid down by section 9(2) and he failed to do so, the Respondent Council had no alternative but to reject his application.

The following judgment was delivered by:—

TRIANTAFYLIDIS, J.: As already pointed out by counsel, once Applicant failed to conform with the provisions of section 9(2) of the relevant legislation—and I have found such provisions to be valid for the reasons given in my Decision which I have just read and which reasons I adopt as part of the short judgment I am now giving—it was not possible or proper for the Respondent Council to deal with his application for a licence under section 9(1) (A) of such legislation.

I would observe, also, that the Respondent Council has done its best, through repeated notices in the press before the expiration of the time-limit set down by section 9(2), to draw the attention of all concerned to the fact that such time-limit was about to expire; this has been stated to the Court by counsel for the Council and it has not been disputed by counsel for the Applicant.

In the circumstances, this recourse fails and has to be dismissed but I have decided to make no order as to costs.

*Application dismissed.*  
*No order as to costs.*