

1970  
May 30

[TRIANTAFYLLIDES, J.]

—  
ANASTASSIA  
SAVVIDOU ETC.  
v.  
REPUBLIC  
(COUNCIL OF  
MINISTERS  
AND ANOTHER)

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANASTASSIA SAVVIDOU, PERSONALLY AND/OR AS  
SECRETARY OF THE ASSOCIATION OF FOLK  
ARTS FRIENDS,

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS THROUGH,

1. THE COUNCIL OF MINISTERS,
2. THE MINISTRY OF COMMERCE AND INDUSTRY,

*Respondents.*

(Case No. 31/69).

---

*Co-operative Societies Law, Cap. 144—Word “Co-operative” may be used in relation to concerns not registered under the Law—With the sanction of the Council of Ministers under section 58 of said Law—Discretion of the Council—Very wide discretion—Not beyond the proper limits of such discretion to refuse sanction under section 58 (supra) on the ground of exclusive use of the word “Co-operative”, during the past fifty-five years, by registered Co-operative Societies only—Because, therefore, its use in other circumstances might cause confusion—See further infra.*

*Discretionary Powers—Policy view—Taken in the exercise of statutory discretionary powers—The Court cannot on a recourse under Article 146 of the Constitution enter into the question whether or not such policy view is a proper one once it is satisfied that the Respondent Council of Ministers acted within the limits of its statutory discretion, and not in abuse and excess of powers—See also supra.*

By this recourse the Applicant complains against the decision of the Council of Ministers dated October 10, 1968, whereby it refused to allow her to use the word “Co-operative” in relation to the description of an intercommunal workshop of folk art, for the creation of which she had been taking steps for some time in the past. It is common ground that the Applicant never sought to register the said workshop as a Co-operative Society under the Co-operative Societies Law,

Cap. 114. All that she was aiming at was to obtain, under section 58 of the said Law, the sanction of the Respondent Council of Ministers for the use of the word "Co-operative" in relation to such workshop.

The Council of Ministers refused the requested sanction mainly on the ground that during the last fifty-five years the word "Co-operative" had come to be exclusively connected with registered Co-operative Societies, and its use, therefore, in other circumstances might cause confusion.

It was argued by counsel for the Applicant that, by basing its decision on such ground, the Council of Ministers, in reality, failed to exercise its powers under section 58 (*supra*) on the merits of the matter and has adopted an erroneous approach thereto.

Dismissing the recourse, the Court:-

*Held*, (1). In my opinion the discretion under section 58 (*supra*) is a very wide one and it was not beyond the proper limits of such discretion to take the view which the Council of Ministers took in this particular case.

(2) In addition to the exclusive use of the word "Co-operative" during the past fifty-five years by registered Co-operative Societies only, it is clear from the material on record that there are now 988 such Societies having dealings not only locally but also with persons from abroad. Thus the scope for, and danger of, confusion was great indeed, if the request of the Applicant were to be granted.

(3) What the Respondent Council of Ministers did in the present case was, in effect, to deal with the Applicant's request on the basis of a policy regarding the exercise of its powers under section 58 (*supra*); and I cannot accept the view that the council disregarded the merits of the case; apparently, it did not find such merits in the Applicant's case as would justify a course contrary to that adopted by it, which was quite reasonably open to it.

(4) Once I am satisfied that the Council of Ministers acted in this matter within the limits of its statutory discretion and not in abuse or excess of powers, I cannot enter into the question as to whether or not the policy view taken by the Council of Ministers was a proper one; to do this would be

1970  
May 30  
—  
ANASTASSIA  
SAVVIDOU ETC.  
v.  
REPUBLIC  
(COUNCIL OF  
MINISTERS  
AND ANOTHER)

1970  
May 30  
—  
ANASTASSIA  
SAVVIDOU ETC.  
v.  
REPUBLIC  
(COUNCIL OF  
MINISTERS  
AND ANOTHER)

beyond the limits of the jurisdiction of this Court on a recourse under Article 146 of the Constitution (see Kyriakopoulos on Greek Administrative Law, 4th edition Vol. I, p. 209 and the decisions of the Greek Council of State in cases Nos. 733/33 and 11/35.

*Recourse dismissed;  
no order as to costs.*

Cases referred to:

*Decisions of the Greek Council of State in cases under Nos. 733/33 and 11/35.*

### Recourse.

Recourse against the refusal of the Respondent to allow the Applicant to use the word "Co-operative" in relation to the description of an intercommunal workshop of folk art.

*L. Papaphilippou*, for the Applicant.

*L. Loucaides*, Senior Counsel of the Republic, for the Respondent.

*Cur. adv. vult.*

The following judgment was delivered by:

TRIANAFYLLIDES, J.: By this recourse the Applicant complains, in effect, against a decision of the Council of Ministers, taken on the 10th October, 1968 (see *exhibit 8*), by virtue of which she was not allowed to use the word "Co-operative" in relation to the description of an intercommunal workshop of folk art, for the creation of which she had been taking steps for some time in the past.

The Ministry of Commerce and Industry, under which come the Co-operatives, had recommended to the Council of Ministers to reject the application of the Applicant, for reasons which the Council of Ministers adopted, and which are referred to later on in this judgment.

It is quite clear that the Applicant never sought to register the said workshop as a Co-operative Society, under the relevant legislation.

All that she was aiming at was to obtain, under section 58

of the Co-operative Societies Law (Cap. 114), the sanction of the Council of Ministers for the use of the word "Co-operative" in relation to such workshop.

The Council of Ministers refused the requested sanction on the ground, mainly, that during the last fifty-five years the word "Co-operative" had come to be exclusively connected with registered Co-operative Societies, and its use in other circumstances might cause confusion.

It has been submitted by learned counsel for the Applicant that the Council of Ministers, by basing its decision on such a ground, has, in reality, failed to exercise its powers, under section 58, on the merits of the matter and has adopted an erroneous approach in relation thereto; counsel has submitted, further, that the Council of Ministers could have granted its sanction subject to such conditions as would avoid any confusion with registered Co-operative Societies.

In my opinion, the discretion under section 58 is a very wide one and it was not beyond the proper limits of such discretion to take the view which the Council of Ministers took in this particular case; especially, as the material placed before it, by means of the relevant submission of the Ministry of Commerce and Industry, disclosed, in addition to the already mentioned exclusive use of the word "Co-operative", during the past fifty-five years, by registered Co-operative Societies only, that such Societies were 988 in number and were having dealings not only locally but also with persons from abroad. Thus the scope for, and danger of, confusion was great, indeed, if the request of the Applicant were to be granted.

What the Council of Ministers did, in effect, was to deal with the said request on the basis of a policy regarding the exercise of its powers under section 58; and I cannot accept the view that the Council of Ministers disregarded the merits of the case; it had before it all relevant material; apparently, it did not find such merits in the case in question as would justify a course contrary to that adopted by it, which was quite reasonably open to it.

Once I am satisfied that the Council of Ministers acted in this matter within the limits of its statutory discretion and not in abuse or excess of powers I cannot enter into the question as to whether or not the policy view taken by the

1970  
May 30

—  
ANASTASSIA  
SAVVIDOU ETC.  
v.  
REPUBLIC  
(COUNCIL OF  
MINISTERS  
AND ANOTHER)

1970  
May 30  
—  
ANASTASSIA  
SAVVIDOU ETC.  
v.  
REPUBLIC  
(COUNCIL OF  
MINISTERS  
AND ANOTHER)

Council of Ministers was a proper one; to do this would be beyond the limits of a jurisdiction such as the one under Article 146 of the Constitution (see Kyriacopoulos on Greek Administrative Law, 4th ed., vol. I, p. 209 and the decisions of the Greek Council of State in Cases 733/33 and 11/35.

Counsel for the Applicant has referred to Articles 89.2 and 21 of the Constitution as being relevant to the matter involved in these proceedings; but he has not, and quite rightly so, seriously pressed any argument that the *sub judice* decision is unconstitutional. So I need not deal with this aspect.

In the light of the foregoing the recourse fails and it is dismissed accordingly.

In view, however, of its nature, I am not prepared to make any order as to costs.

*Application dismissed;  
no order as to costs.*