

1982 January 21

[TRIANTAFYLIDIS, P., L. LOIZOU, HADJIANASTASSIOU, A. LOIZOU,
MALACHTOS, DEMETRIADES, JJ.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ALECOS CONSTANTINIDES,

Applicant,

v.

THE ELECTRICITY AUTHORITY OF CYPRUS,

Respondent.

(Case No. 5/80).

5 *Practice—Recourse for annulment—Evidence—Affidavit evidence—
Admissibility—Principles applicable—Affidavits admitted in evi-
dence subject to the relevance of their contents being established
of the recourse—And subject to counsel for the other parties
being given an adequate opportunity to test their accuracy by
cross-examination.*

10 Counsel appearing for the Cyprus Broadcasting Corporation,
which was an interested party in these proceedings, has placed
before the Court, in connection with the sub judice issues
in this case, two affidavits and counsel for the applicant has
objected to their admissibility in evidence.

On the objection:

15 *Held*, that one of the guiding factors to be applied in consi-
dering the admissibility of any evidence in a recourse for annul-
ment is whether such evidence is reasonably relevant to, and
probative of, any issue before the Court and can or cannot
be of assistance to the Court in doing justice in the particular
20 case in accordance with its jurisdiction (see *Kyriakides v. Republic*,
1 R.S.C.C. 66); that, therefore, the affidavits in question are,
at this stage, admissible evidence, subject to the relevance of
their contents being established to the satisfaction of the Court
in the course of the further hearing of this case and subject,

also, to Counsel for the applicant or counsel for any other party being given, if he so applies, an adequate opportunity to test their accuracy by cross-examination.

Order accordingly.

Cases referred to:

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Kyriakides v. Republic, 1 R.S.C.C. 66;

Georghiades (No. 2) v. Republic (1965) 3 C.L.R. 473 at p. 480;

Frangoulides v. Republic (1965) 3 C.L.R. 531 at p. 541;

Malais v. Republic (1965) 3 C.L.R. 572 at p. 574;

Frangos v. Republic (1970) 3 C.L.R. 312 at p. 333.

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Ruling.

Ruling on an Objection by applicant's counsel as to the admissibility of two affidavits placed before the Court by the Cyprus Broadcasting Corporation which is an interested party in the above recourse.

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P. Angelides, for the applicant.

G. Arestis, for the respondent.

G. Polyviou with *P. Polyviou*, for the Cyprus Broadcasting Corporation, an interested party.

N. Charalambous, Senior Counsel of the Republic, for the Attorney-General of the Republic, as *amicus curiae*.

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Cur. adv. vult.

TRIANTAFYLLIDES P. read the following ruling of the Court. Counsel appearing for the Cyprus Broadcasting Corporation, which is an interested party in these proceedings, has placed before the Court, in connection with the sub judice issues in the present case, two affidavits sworn, respectively, on January 14, 1982, by Evros Demetriades, the Director of the Department of Statistics and Research in the Ministry of Finance, and on January 15, 1982, by Geōrge Vassiliou, the Managing Director of the Middle-East Marketing Research Bureau Ltd.

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By means of the first affidavit it is sought to prove that in Cyprus the higher the income of a household is the higher is its expenditure on electricity; and by means of the second affidavit it is sought to establish that nearly 93% of all the households in Cyprus own a television set and 97% of them own at least one radio.

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Counsel for the applicant has objected to the admissibility in evidence of the said two affidavits.

5 In *Kyriakides v. The Republic*, 1 R.S.C.C. 66, the following were stated (at p. 69) in relation to the admission of evidence in the course of the hearing of a recourse—such as the present one—under Article 146 of the Constitution:

10 “With regard to the law and rules of evidence, in particular, this Court, of course, will first look for guidance to the law and rules of evidence applicable in Cyprus in respect of other courts but whenever it deems it necessary for the proper fulfilment of its mission under the Constitution it will not hesitate to relax or even depart from such law and rules of evidence.

15 Without in any way wishing to prevent parties from raising any legitimate objection to the admissibility of any evidence adduced before this Court, the Court draws their attention to the fact that one of the guiding factors to be applied in considering the admissibility of any such evidence is whether such evidence is reasonably relevant to, and probative of, any issue before the Court and can or cannot be of assistance to the Court in doing justice in the particular case in accordance with its jurisdiction”.

20 The *Kyriakides* case, *supra*, was followed, in this respect, in, *inter alia*, *Georgiades (No. 2) v. The Republic*, (1965) 3 C.L.R. 473, 480, *Frangoulides v. The Republic*, (1965) 3 C.L.R. 531, 541, *Malais v. The Republic*, (1965) 3 C.L.R. 572, 574, and *Frangos v. The Republic*, (1970) 3 C.L.R. 312, 333.

30 In the light of the foregoing we are of the view that the affidavits in question are, at this stage, admissible evidence, subject to the relevance of their contents being established to our satisfaction in the course of the further hearing of this case and subject, also, of course, to counsel for the applicant or counsel for any other party being given, if he so applies, an adequate opportunity to test their accuracy by cross-examination.

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Order accordingly.