

1985 June 15

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

RAFOUL Y. SALEM AND ANOTHER

*Applicants,*

v.

- THE REPUBLIC OF CYPRUS, THROUGH  
1. THE MINISTER OF INTERIOR,  
2. THE MIGRATION OFFICER,

*Respondents.*

(Case No. 116/84).

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*Legitimate interest—Decision that an alien, who is a director and manager of applicant 2 company, should leave Cyprus—Legitimate interest of applicant 2 directly and adversely affected.*

5 *Administrative act—Executory—Informatory.*

By means of this recourse applicants challenge the decision of the respondents to refuse to renew the working permit and the temporary residence permit of applicant 1, and the decision that applicant 1 should leave Cyprus.  
10 Applicant 1 is a director and manager of applicant 2.

The sub judice decision was communicated to the applicant by letter dated 16.2.84. Applicant 1 was notified thereby that it was not possible to approve his request for extension of his temporary residence permit in order  
15 to enable him to reside and work in Cyprus as Director of applicant 2 and that he was required to make arrangements to leave Cyprus at once.

Counsel for the respondents raised two preliminary objections, namely that paragraph B of the motion of relief relates to acts not of an executory nature and that applicant 2 does not possess a legitimate interest.  
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*Held*, dismissing the preliminary objections: (1) The contents of the letter dated 16.2.84 amount to two decisions of executory nature, and not merely to acts of informative nature.

(2) As applicant 1 is a director and manager of applicant 2, it follows that the decision that applicant 1 has to leave Cyprus, adversely and directly affects a legitimate interest of applicant 2. 5

*Preliminary objections dismissed.*

**Cases referred to:** 10

*Karram v. The Republic* (1983) 3 C.L.R. 199;

*Tseriotis v. The Municipality of Nicosia* (1984) 3 C.L.R. 1;

*Odysseos v. The Republic* (1984) 3 C.L.R. 463;

*Othon Galanos and Son Limited v. The Cyprus Broadcasting Corporation* (1984) 3 C.L.R. 742; 15

*Mavrogenis v. The Republic* (1984) 3 C.L.R. 1140.

**Preliminary Objections.**

Preliminary objections by counsel for respondents in the recourse against dismissal of applicant's No. 1 application for the extension of his temporary residence in Cyprus in order to enable him to reside and work in Cyprus. 20

*L. Papaphilippou* with *A. Mappourides*, for the applicants.

*A. Vladimirov*, for the respondents.

*Cur. adv. vult.* 25

TRIANAFYLLIDES P. read the following decision: At the commencement of the hearing of this recourse counsel for the respondents raised two preliminary objections:

First, that applicant 2 does not possess a legitimate interest, in the sense of Article 146.2 of the Constitution, which would entitle it to file the present recourse. 30

Secondly, that paragraph B of the motion for relief in

the Application relates to acts which are not of executory nature, but only of informative nature, and, consequently, no recourse could be made in respect of them under Article 146 of the Constitution.

5 In relation to his second of the above two objections counsel for the respondents has relied on the case of *Karram v. The Republic*, (1983) 3 C.L.R. 199, where the following have been stated by Loris J. (at p. 206):

10 "I hold the view, and it was so conceded by counsel for respondents during the hearing of the present application, that the second paragraph in both letters (exh. 2 and exh. 4) does not contain a decision of the administration of executory character; both such paragraphs are merely informative ones; they express the views of the administration in the matter and inform the applicant accordingly. (Vide Kyriacopoulos on Administrative Law 4th ed. Vol. III p. 95)."

20 Useful reference in this connection may be made, also, to the judgments of Malachtos J. in *Tseriotis v. The Municipality of Nicosia*, (1984) 3 C.L.R. 1, 8, of Savvides J. in *Odysseos v. The Republic*, (1984) 3 C.L.R. 463, 472, of Stylianides J. in *Othon Galanos and Son Limited v. The Cyprus Broadcasting Corporation*, (1984) 3 C.L.R. 25 742, 752, and of Loris J. in *Mavrogenis v. The Republic*, (1984) 3 C.L.R. 1140, 1148.

In the present instance the complained of decisions of respondent 2, who comes under respondent 1, were communicated to applicant 1 by means of a letter dated 16th February 1984. Applicant 1 was notified thereby that his application, requesting extension of his temporary residence in Cyprus in order to enable him to reside and work in Cyprus as a director of applicant 2, which is an offshore company, had been carefully considered but that it was not possible to approve it and that he was required to make arrangements to leave Cyprus at once.

35 In my opinion the contents of the said letter amount to, at least, two decisions of executory nature, and not merely to acts of informative nature, and, therefore, such deci-

sions could be challenged by means of the present recourse.

As regards the other objection of counsel for the respondents I am of the view that since it is evident from the contents of the letter of 16th February 1984, and from all the other material before me, that applicant 1 is a director of applicant 2 and, moreover, he appears to be the manager of applicant 2, it follows that a legitimate interest of applicant 2, in the sense of Article 146.2 of the Constitution, is adversely and directly affected by the decision of the respondents that applicant 1 has to leave Cyprus.

Thus, the objections of counsel for the respondents cannot be upheld and this case has to be heard on its merits.

*Order accordingly.*