

Appeals in the cases of La Petite Afrique and Nakira

Bench: Mrs Joyce Rothschild (presiding) and Mrs Susan Lawrence

Legal Adviser: Mr Conrad Lisk

9.12.2020

These appeals arise out of separate cases but raising similar issues. We agreed to hear them jointly. As they are interim matters the subsequent substantive hearings will be heard separately.

Our role today is to decide whether the decisions of the licensing sub committee to impose interim steps was wrong or not, and therefore whether these interim steps should continue or not.

We have taken note of the licensing objectives:

Prevention of crime and disorder,

Public safety

Prevention of public nuisance, and

Protection of children from harm.

We also looked at case law, particularly the decision in Lalli.

In each case, the certificate from the senior police officer triggered a review by the licensing subcommittee, and a range of evidence was presented to the committee in each case.

The appellants argued that the certificates referred to 'serious crime,' which has a specific definition under the relevant legislation. They contended that the reference to the offence of public nuisance as amounting to a serious crime was wrong for the following reasons

- (1) The matters complained about, at their highest, amounted to breaches of the Covid regulations, and would only have been prosecuted as such, and
- (2) The matters, if they were to lead to a prosecution for public nuisance, would not have led to sentences of three years' imprisonment or more.

The BCC was the respondent, the police were added at the start of the proceedings. The respondents contended that following the caselaw in Lalli, the court cannot question the validity of the certificate of the senior officer. Therefore, the licensing subcommittee had to make its decision, following the licensing principles and the evidence placed before it. In each case, the committee came to the conclusion that the interim steps should be granted.

We find that the legal position regarding the validity of the certificates could not be scrutinised by the licensing subcommittee, or by this court. If their validity is to be questioned, that would have to be done by the higher courts.

We accept the decision of the licensing subcommittee in these two cases. They based their decision on a range of evidence and the licensing objectives. Therefore we uphold their decisions and dismiss the appeals. The interim steps will continue.

The costs in this hearing will be finalised at the end of the main appeals.