

(1988)

1988 June 29

[A. LOIZOU, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

IAKOVOS PHOTIADES FOODSTUFF SUPPLIERS LTD. ,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTER OF COMMERCE AND INDUSTRY,

Respondent.

(Case No. 280/87).

Imports—The Imports (Regulation) Law, 1962 (Law 49/62), as amended by Law 7167, section 3—Refusal to grant licence for importation of fowl medames on ground of protecting local industry—Product intended to be protected need not be identical with that, the importation of which is prohibited—It is sufficient if the two are of the same category.

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The facts of this case sufficiently appear in the judgment of the Court.

Recourse dismissed.

No order as to costs.

Cases referred to:

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Sofoclidis v. The Republic (1987) 3 C.L.R. 15.

Recourse.

Recourse against the refusal of the respondent to grant applicant a licence for the importation of 700 cartons of White Beans in salty water and 700 cartons of Foul Medames.

G. Triantafyllides, for the applicants.

P. Clerides, for the respondent.

Civ. adv. vult.

5 A. LOIZOU P. read the following judgment. By the present
recourse the applicant company seeks a declaration of the Court
that the act and/or decision of the respondent dated 27th March
1987 by which he dismissed and/or did not approve their applica-
tion dated 16th March, 1987 for the issue to them of a licence for
10 the importation of seven hundred cartons of White Beans in salty
water in 425 gr. tins and seven hundred cartons of Foul Medames
in 397 gr. tins is null and void and with no legal effect whatsoev-
er.

15 The applicants are a company with limited liability engaged,
inter alia, in the import of foodstuffs. Their application for a Li-
cense to import the aforesaid goods was not approved for the pur-
pose of protecting the local production (Exhibit 1).

20 It appears that from time Licences for the importation of both
tinned Beans and tinned Foul Medames were granted. That
caused protests from the local canners who could not dispose of
their Foul Medames, which were claimed to be of better quality
than those imported by the applicant company. A cable from the
Cyprus Canners Association, dated the 21st January 1987, was
addressed to the Respondent informing him that all canners in
Cyprus were producing such products and they were warmly re-
25 questing him to stop granting import licences for Foul Medames,
noting also therein that the quality and price of local foul Me-
dames is better and cheaper in the market. Protests were also
made by the Paphos Branch of the Farmers Association EKA
stating that there were 1,200 tons of Broad Beans that could not
30 be disposed thus rendering the condition of the producers tragic.

In his written address counsel for the applicant company com-
plains only against the refusal to grant an import Licence for the

importation of the seven hundred cartons of Foul Medames. I take it that the part of the relief as regards the import Licence of White Beans in salty water is abandoned. This is understandable as the applicant company was given a Licence for the importation of 1,400 cartons of tinned Beans on the 15th April 1987, that is double the quantity than that, it had asked for an import Licence on the 16th March, 1987. 5

The case for the applicant company was argued on one ground only, namely that the respondent acted under a misconception of fact in treating the Foul Medames and Broad Beans as being one kind of product. Granting for a moment that that is so, there is authority that the protection need not refer to identical products but to products of the same category. (*Andreas Sophoclidis v. The Republic* (1987) 3 C.L.R. 15 at pp. 16 - 17.) There is no doubt that Foul Medames are of the same category as Broad Beans, their difference being only one of size. 10 15

The factual however position is not so. The note of the Respondent on the application of the applicant company (Exhibit 1), which constitutes the reasoning for the sub - judge decision, speaks that the licence was refused for the purpose of protecting the local production. This statement has to be read in conjunction with the cable of Cypriot Cannery of such products which, as they claim, are of better quality and price and they are cheaper in the market. It may also be noted that on that cable there is a note to the effect that a reply should be given to the senders informing them that the granting of import Licences of Foul Medames had been suspended. 20 25

In conclusion it may be noted that the sub - judge decision was taken on the basis of the Order made under s.3 of the Imports (Regulation) Law 1962 (Law No. 49 of 1962) as amended by Law No. 7 of 1967, published in Supplement No. 3 of the Official Gazette of the Republic of the 20th January 1983 under Notification No. 7, whereby a Licence is required for the importation of tinned Beans that fall within the Customs Class 20.02.50 and tinned Foul Medames which fall within Class 20.02.92; an order 30 35

made for the purpose of encouraging local production and manufacture and the other purposes set out in sub - section 1 of section 3 of the aforesaid Law.

5 For all the above reasons the recourse fails and is hereby dismissed with no order as to costs.

*Recourse dismissed.
No order as to costs.*