

**Order of the President of the Court of First Instance of
25 April 2008 — Vakakis v Commission**

(Case T-41/08 R)

*(Community tendering procedure — Interim proceedings —
Loss of an opportunity — Locus standi — Admissibility of
the main application — Urgency — Measures of inquiry)*

(2008/C 197/44)

Language of the case: English

Parties

Applicant: Vakakis International — Symvouli gia Agrotiki Anaptixi AE (Athens, Greece) (represented by: B. O'Connor, Solicitor)

Defendant: Commission of the European Communities (represented by: M. Wilderspin and G. Boudot, Agents)

Re:

Application for an order granting interim measures in the context of the service tender procedure EuropeAid/125241/C/SER/CY for the supply of 'Technical Assistance to Support Rural Development Policy' in the Northern Part of Cyprus.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The application for measures of inquiry or organisation of procedure is dismissed.*
3. *There is no need for a decision on the application for leave to intervene.*
4. *Costs are reserved, except that Agriconsulting shall bear the costs incurred by it in connection with the submission of its application for leave to intervene.*

**Action brought on 14 May 2008 — CHEMK and
Kuznetskie ferrosplavy v Council and Commission**

(Case T-190/08)

(2008/C 197/45)

Language of the case: English

Parties

Applicants: Chelyabinsk elektrometallurgical integrated plant OAO (CHEMK) (Chelyabinsk, Russia) and Kuznetskie ferrosplavy OAO (Novokuznetsk, Russia) (represented by: P. Vander Schueren, lawyer)

Defendants: Council of the European Union and Commission of the European Communities

Form of order sought

- Annul the contested regulation in so far as it affects the applicants;
- order the Council to pay the costs incurred by the applicants in relation to these proceedings; or
- in the alternative, annul the contested decision; and
- order the Commission to pay the costs incurred by the applicants in relation to these proceedings.

Pleas in law and main arguments

The applicants put forward five grounds in support of their application for annulment of Council Regulation (EC) No 172/2008 ⁽¹⁾ of 25 February 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ferro-silicon originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia ('the contested regulation') in so far as it affects the applicants. In the alternative, the applicants seek annulment of the Commission decision dated 28 February 2008, notified to them on 3 March 2008, by which the Commission rejected their request for a suspension of the anti-dumping measures that were introduced by the contested regulation ('the contested decision').

First, the applicants claim that the Council acted contrary to Article 2(9) of the Basic Regulation ⁽²⁾ ('the Basic Regulation') and failed to fulfil the obligation to provide an adequate statement of reasons when it refused to use the actual profit margin of the applicants' related importer for the construction of their export price.

Second, the applicants submit that the Council infringed the principle of non-discrimination as well as Articles 6(7), 8(4) and 20(1) of the Basic Regulation by granting advanced disclosure to the Macedonian producer SILMAK.

Third, the applicants contend that the Council acted contrary to Article 3(6) of the Basic Regulation by committing an error of law and a manifest error of assessment in concluding that the Community industry suffered material injury.

Fourth, the applicants claim that the contested regulation is contrary to Articles 3(6) and 3(7) of the Basic Regulation and is vitiated by an error of law, multiple manifest errors of assessment, the lack of due care and inadequate reasoning inasmuch as the Council allegedly disregarded the effect of other factors on the situation of the Community industry that break the link between the targeted imports and the alleged material injury to the Community industry.

Fifth, the applicants submit that the Council violated their rights of defence by refusing to provide data on the complaint that justified the initiation of the anti-dumping investigation.