

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2015/776 ⁽¹⁾ in so far as it:
 - (i) rejects the applicant's request for an exemption from any extension of anti-dumping measures to imports of bicycles consigned from Pakistan;
 - (ii) extends the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 ⁽²⁾ on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned by the Applicant from Pakistan; and
 - (iii) orders the collection of the said duty on imports consigned from Pakistan and registered in accordance with Article 2 of Regulation (EU) No 938/2014 ⁽³⁾.
- order the defendant to pay the costs of the proceeding.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea, alleging that the defendant infringed Article 13(2)(b) of the Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51). More specifically, in the application of Article 13(2)(b) the defendant committed errors of procedure and law, and used incoherent reasoning.

⁽¹⁾ Commission Implementing Regulation (EU) 2015/776 of 18 May 2015 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China to imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not (OJ 2015 L 122, p. 4).

⁽²⁾ Council Regulation (EU) No 502/2013 of 29 May 2013 amending Implementing Regulation (EU) No 990/2011 imposing a definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China following an interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ 2013 L 153, p. 17).

⁽³⁾ Commission Implementing Regulation (EU) No 938/2014 of 2 September 2014 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EU) No 502/2013 on imports of bicycles originating in the People's Republic of China by imports of bicycles consigned from Cambodia, Pakistan and the Philippines, whether declared as originating in Cambodia, Pakistan and the Philippines or not, and making such imports subject to registration (OJ 2014 L 263, p. 5).

Action brought on 4 August 2015 — Consorzio Vivaisti viticoli pugliesi and Negro v Commission**(Case T-436/15)**

(2015/C 328/21)

*Language of the case: Italian***Parties**

Applicants: Consorzio Vivaisti viticoli pugliesi (Otranto, Italy); and Negro Daniele (Otranto) (represented by: V. Pellegrino and A. Micolani, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- first, suspend the measure, in so far as concerns the applicants' interest, pursuant to Article 278 TFEU;
- find and declare that Commission Implementing Decision No 2015/789 is unlawful, in particular Article 9 thereof and Annex 1 thereto, to the extent that they classify the *Vitis* species among those susceptible to the European and non-European isolates of *Xylella fastidiosa* and therefore prohibit movement of that species 'within the Union, within or out of the demarcated area', and accordingly annul that decision in so far as it concerns the applicants' interest;
- order the defendant to pay the costs of the proceedings;
- order any other measures which the Court may consider necessary, such as further investigation, including by EFSA.

Pleas in law and main arguments

In support of their claims, the applicants allege infringement of the principle of proportionality and Article 5 TEU and Article 296 TFEU, as well as essential procedural requirements, in the form of failure to give reasons or incorrect reasons; they also allege misuse of powers on the grounds of incorrect assumptions in matters of fact and law, failure to conduct a proper investigation and inherent inconsistency.

The applicants submit that the action has its origins in studies carried out by researchers at the National Research Council (CNR) of Bari, which, in the light of observations, tests and experiments, in the field and in the laboratory, show that:

- the bacterium isolated in Salento is a different subspecies and strain from that widely held to be responsible for plant diseases in grapevines on continents other than Europe;
- since 2013, grapevine varieties grown in the province of Lecce have shown no symptoms of either Pierce's disease or any other pathological desiccation;
- in the same period with regard to the same grapevine varieties, no trace of the bacterium has been detected, not even in areas close to and in direct contact with infected olive trees;
- laboratory tests on grapevines (via inoculum or contact with the vector) have all produced a negative result, both with regard to the development of the infection and the presence of the bacterium in asymptomatic forms.

The inclusion of grapevines on the list of specified plants is, in the applicants' view, manifestly unlawful since it does not take into account the findings of the investigations which reveal that grapevines are clearly immune to the bacterium present in the infected area.

The applicants also argue that the decision is inconsistent since, following EFSA's initial opinion of 26 November 2013, which acknowledged that little was known about the *Xylella fastidiosa* strain in Salento, the Commission did not include grapevines on the list of susceptible plants in the earlier decisions Nos 87 and 497 of 2014, but surprisingly went on to include them and prohibit their movement even though it had received more detailed studies from EFSA and the Italian authorities showing their immunity to the bacterium isolate in Salento.