

Defendant: European Commission (represented by: L. Haasbeek and R. Lindenthal, acting as Agents)

Intervener in support of the defendant: Kingdom of Belgium (represented by: L. Van den Broeck and P. Cottin, acting as Agents, and by A. Poppe and E. Jacubowitz, lawyers)

Re:

Application under Articles 278 and 279 TFEU seeking the suspension of the operation of Commission Implementing Decision (EU) 2018/1251 of 18 September 2018 not approving empenethrin as an existing active substance for use in biocidal products of product-type 18 (OJ 2018 L 235, p. 24).

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Action brought on 10 April 2019 — Uzina Metalurgica Moldoveneasca/Commission

(Case T-245/19)

(2019/C 230/68)

Language of the case: English

Parties

Applicant: Uzina Metalurgica Moldoveneasca OAO (Rîbnița, Moldova) (represented by: P. Vander Schueren and E. Gergondet, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the action admissible;
- annul Commission Implementing Regulation (EU) 2019/159 of 31 January 2019, ⁽¹⁾ as far as it applies to the applicant; and
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on eight pleas in law.

1. First plea in law, alleging that the Commission Implementing Regulation 2019/159 is based on a manifest error of assessment and would have violated the principles of equality and non-discrimination by applying definitive safeguard measures to imports originating in Moldova, whereas comparable imports originating in countries that are members of the European Economic Area would have been excluded.

2. Second plea in law, alleging that Commission Implementing Regulation 2019/159 violates Article 18 of Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 ⁽²⁾ by applying definitive safeguard measures to imports originating in Moldova, even though imports from developing countries, such as Moldova, should have been excluded from the application of such measures.
3. Third plea in law, in the alternative, alleging that the defendant violated the principles of sound administration and legitimate expectation, would have committed a manifest error of assessment and would have violated Article 16 of Regulation 2015/478 by failing to assess whether the conditions for imposing safeguard measures would have been met for each product category forming the product concerned separately.
4. Fourth plea in law, alleging that the defendant committed a manifest error of assessment, would have breached its duty of care and would have violated Articles 9(1)(a) and 16 of Regulation 2015/478 by considering that the increase in imports of the product in the European Union would have justified the imposition of safeguard measures.
5. Fifth plea in law, alleging that the defendant, when it established the existence of a threat of serious injury, committed a manifest error of assessment, would have violated the principle of sound administration, would have breached its duty of care and would have acted contrary to Articles 5(2), 9(2) and 16 of Regulation 2015/478.
6. Sixth plea in law, alleging that the defendant committed a manifest error of assessment and would have violated Article 16 of Regulation 2015/478 as it would have not established that the increase in imports was such as to threaten to cause serious injury to the European Union industry and would have not considered other factors likely to justify the alleged threat of serious injury.
7. Seventh plea in law, alleging that Commission Implementing Regulation 2019/159 violates Article 16 of Regulation 2015/478 as the defendant would have lacked competence and would have acted in breach of Article 5(1) of Regulation 2015/478 when it would have initiated an investigation *ex officio* that would have led to the adoption of the Commission Implementing Regulation 2019/159.
8. Eighth plea in law, alleging that the defendant violated the right to a fair hearing of the applicant by failing to disclose essential information regarding the evolution of imports and the injury situation of the European Union industry.

⁽¹⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

⁽²⁾ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p. 16).

Action brought on 20 April 2019 — *gastivo portal* v EUIPO — *La Fourchette* (Representation of a fork on a green background)

(Case T-266/19)

(2019/C 230/69)

Language of the case: English

Parties

Applicant: *gastivo portal* GmbH (Bremen, Germany) (represented by: O. Spieker, A. Schönfleisch, N. Willich and N. Achilles, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: *La Fourchette* SAS (Paris, France)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal