

Action brought on 20 February 2020 — Società agricola Vivai Maiorana and Others v Commission**(Case T-116/20)**

(2020/C 129/24)

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

Applicants: Società agricola Vivai Maiorana Ss (Curinga, Italy), Confederazione Italiana Agricoltori — CIA (Rome, Italy), MIVA — Moltiplicatori Italiani Viticoli Associati (Faenza, Italy) (represented by: E. Scoccini and G. Scoccini, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the following parts of Annex IV to Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019: Part A (fodder plant seed), Part B (cereal seed), Part C (vine), Part F (vegetable seed), Part I (vegetable planting) and Part J (fruit plants);
- declare Articles 36 and 37(2) of Regulation (EU) 2016/2031, and point (3) of Section 4 of Annex I thereto, invalid.

Pleas in law and main arguments

The present action has been brought against Parts A (fodder plant seed), B (cereal seed), C (vine), F (vegetable seed), I (vegetable planting) and J (fruit plants) of Annex IV to Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ 2019 L 319, p. 1).

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging infringement of Article 36(e) and (f) of Regulation (EU) 2016/2031, failure to comply with the principle of proportionality and a failure to state adequate reasons
 - The applicants claim in this regard that the 0 % threshold for the presence of Union regulated non-quarantine pests (RNQPs) on native plants for planting established by the Commission in Annex IV to Regulation (EU) 2019/2072 was set without appropriate verification that the presence of the RNQPs has an unacceptable economic impact and that feasible and effective measures are available to prevent their presence, as required by Article 36(e) and (f) of Regulation (EU) 2016/2031.
2. Second plea in law, alleging infringement of the FAO International Treaty on Plant Generic Resources for Food and Agriculture (ITPGRFA)
 - The applicants claim in this regard that the introduction of the 0 % threshold for RNQPs present on native plant resources infringes Article 9 of the FAO International Treaty on Plant Generic Resources for Food and Agriculture (ITPGRFA), to which the European Union and the individual countries of the European Union are signatories.
3. Third plea in law, alleging infringement of Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ 2018 L 150, p. 1)
 - The applicants claim in this regard that the procedure for selecting and standardising plant varieties resulting from the application of the thresholds for the RNQPs expressly infringes the provisions of Regulation (EU) 2018/848.

4. Fourth plea in law, alleging incompatibility with the EU's agricultural policy

- The applicants claim in this regard that the introduction of thresholds for the RNQPs is inconsistent with the agricultural policy of the European Union and in particular with:
 - Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7);
 - Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, p. 1);
 - Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ 2013 L 347, p. 487);
 - Article 8 of Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 on support for rural development (OJ 2014 L 227, p. 1).

Action brought on 21 February 2020 — El Corte Inglés v EUIPO — MKR Design (Panthé)

(Case T-117/20)

(2020/C 129/25)

Language of the case: English

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: J. Rivas Zurdo, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: MKR Design Srl (Milan, Italy)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark Panthé — Application for registration No 16 366 461

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 5 December 2019 in Case R 378/2019-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order the party or parties opposing this action to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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