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First decisions on the protection of plant variety rights in Greece

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In *Grapa Company Limited and SNFL Mediterraneo SL against a Greek nursery* (Decisions nos. 33/2016, 34/2016, February 2, 2016, only recently notified) the District Court of Corinth, in preliminary proceedings, accepted the first ever petitions for the protection of plant varieties in Greece.

Grapa Company Limited is the owner of the Community plant variety Early Sweet and SNFL Mediterraneo SL is the exclusive licensee of Ralli Seedless, both rights relating to table grapes. These companies became aware of protected table grapes' plants being distributed to Greek farmers, without any authorization or licence. The right holders therefore considered taking joint action against the infringer. However, Greek farmers and Greek society at large are not sufficiently aware or fully informed about plant variety rights and, until that time, there did not exist any case law in Greece on the successful protection of plant variety rights, making the enforcement of these rights uncertain. Furthermore, the infringer was cautious and avoided the use of the indications Early Sweet or Ralli Seedless with respect to the plant varieties in question. Despite these issues, the companies Grapa Company Limited and SNFL Mediterraneo SL decided to take legal action against a potentially infringing vine nursery. In this respect, they made a test purchase of the table grapes from that nursery and, in order to ascertain that the table grapes in question were indeed Early Sweet and Ralli Seedless, even though they were distributed under a different name, they arranged to conduct DNA tests by a reputable laboratory. After compiling DNA evidence, the companies initiated preliminary proceedings before the competent court in Corinth against the infringing vine nursery.

On the question at hand, the District Court of Corinth ruled that the unauthorized distribution of the table grapes Early Sweet and Ralli Seedless by the nursery constituted a clear infringement of the abovementioned plant variety rights and ordered the vine nursery to immediately cease the infringement, to withdraw the table grapes' plants from the market and to provide information with regard to prior sales.

These are indeed landmark decisions in terms of Greek law theory and practice. These are the first ever cases which deal with the protection of plant varieties in Greece and, for the very first time, a Greek Court confirmed that plant variety rights enjoy the protection provided by Community Directive no. 48/2004/EC.

It is worth noting that the case has now been closed following a settlement agreement between Grapa Company Limited, SNFL Mediterraneo SL and the Greek nursery, in the context of which the Greek nursery also accepted the payment of compensation.

Following the above decisions, breeders have good reason to believe that Greece, even while struggling with a severe economic crisis, is clearly a jurisdiction friendly to plant variety rights, which has, in turn, led to significant progress in the successful enforcement of IP rights.

Greece can no longer be considered as a country in which the protection of plant variety rights is doubtful and this may also result in attracting related foreign investment to the benefit of the economy’s primary sector.

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