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## Like Oil Floating on Water: Italy’s Olive Crisis and the Politics of Backlash Against Transnational Legal Orders

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**LIKE OIL FLOATING ON WATER:  
ITALY’S OLIVE CRISIS AND THE POLITICS OF BACKLASH  
AGAINST TRANSNATIONAL LEGAL ORDERS**

*Tommaso Pavone\**

**ABSTRACT**

This article analyzes how failures to reconcile international law with local knowledge during moments of political crisis can frustrate compliance, foment conspiracy, and foster backlash against transnational legal orders. It does so through a case study of the law and politics surrounding the destructive outbreak of *xylella fastidiosa* amidst the olive groves of Italy in 2013. The epidemic prompted interventions by the European Commission and the European Court of Justice to limit the pathogen’s diffusion by applying EU environmental regulations and mandating the eradication of thousands of trees. Yet given limited consultations of local stakeholders and lackluster local knowledge, the EU’s containment efforts backfired, sparking a farmers’ revolt and prompting Italian judges to traffic in conspiracy to obstruct compliance. By drawing on theories of legal mobilization and political sociologies of contentious events, this article shows how Italy’s olive crisis is part of a broader trend: the rise of contentious a politics of resentment that can desiccate the on-the-ground authority of even the most well-entrenched transnational legal orders.

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## I. OF OLIVE TREES AND BACKLASH AGAINST TRANSNATIONAL LEGAL ORDERS

International courts and transnational legal orders are facing an unprecedented wave of political resistance and backlash.<sup>1</sup> Even their most successful and entrenched prototypes—the European Union (EU) and the European Court of Justice (ECJ)—have been forced to grapple with mounting skepticism in the aftermath of the Euro-crisis, the migration crisis, Brexit, and the rise of populism.<sup>2</sup> The political winds have even shifted in Italy, where support for European integration and transnational law had long been taken for granted.<sup>3</sup> This article uses the Italian case to understand what is fueling the increasingly contentious politics afflicting transnational legal orders. For one crisis shaping Italy’s place in the EU captures these shifts in a nutshell.

In Italy, there is hardly a more poignant symbol of resilience in the face of crisis than the olive tree. When the country’s party system collapsed in the early 1990s, Romano Prodi invoked the olive tree to resurrect the center-left, noting that it “is the outcome of hundreds of years of human labor, [and] is contorted because it has the strength to resist even the most severe weather.”<sup>4</sup> Such sentiments are especially deeply rooted in the southern region of Puglia, where 60 million olive trees outnumber people by fifteen to one.<sup>5</sup> Not only do these trees generate 40 percent of Italy’s olive oil,<sup>6</sup> but they are an integral part of local identity and family life. “These olive trees have sustained and enriched us for centuries,” explains Corrado, a farmer in the town of Ostuni in a 2017 interview; “They’re the ones that constituted me, my parents, my grandparents. All of us have lived thanks to these trees.”<sup>7</sup>

In years past, Corrado’s words would have conveyed the promise of rebirth. Yet in 2017, they betrayed a sense of desperation: for his interlocutors were not olive oil aficionados, but journalists covering an emergent crisis.

<sup>1</sup> On conceptualizing transnational legal orders and the wave of backlash against international courts, see generally TERENCE C. HALLIDAY & GREGORY SHAFFER, *TRANSNATIONAL LEGAL ORDERS* (Terence C. Halliday & Gregory Shaffer eds., 2015); Erik Voeten, *Populism and Backlashes Against International Courts*, 18 *PERSPS. ON POL.* 407 (2020).

<sup>2</sup> See generally Liesbet Hooghe, Tobias Lenz & Gary Marks, *Contested World Order: The Delegation of International Governance*, 14(4) *REV. INT’L ORGS.* 731 (2019).

<sup>3</sup> See generally Erik Jones, *Italy, Its Populists and the EU*, 60 *SURVIVAL* 113 (2018).

<sup>4</sup> Mark Gilbert, *The Oak Tree and the Olive Tree*, 11 *ITALIAN POL.* 101, 103 (1996).

<sup>5</sup> Silvia Donati, *On the ‘Olive Oil Road’ in Puglia*, *IT. MAG.* (July 14, 2016, 6:00 AM), <https://www.italymagazine.com/news/olive-oil-road-puglia>.

<sup>6</sup> Danielle Pergament, *Italy’s Treasured Olive Oil, at the Source*, *N.Y. TIMES* (May 22, 2015), <https://www.nytimes.com/2015/05/24/travel/italys-treasured-olive-oil-at-the-source.html>.

<sup>7</sup> *Terra!:* A *Macchia d’Olio*, *MEDIASET* (Nov. 6, 2017), [https://www.mediasetplay.mediaset.it/video/terra/a-macchia-dolio-6-novembre\\_F308571001000901](https://www.mediasetplay.mediaset.it/video/terra/a-macchia-dolio-6-novembre_F308571001000901).

Just a few years earlier in 2013, some nearby farmers began noticing tiny globs of spit nestled in the grasses lining their olive groves. Within the globs lie nascent spittlebugs, the vectors of a deadly pathogen that had never been detected in Europe: *Xylella fastidiosa*. The bacterium restricts water flow in the plant it infects, turning its leaves brown as it slowly dries to death. By 2017, groves like Corrado's lay at the epicenter of an epidemic that would kill over 10 million olive trees, cost 100,000 jobs, produce 1.2 billion euros in damages, and cause a surge in world olive oil prices of 20 percent.<sup>8</sup> As vast expanses of formerly lush groves harboring specimens up to 1,500 years old<sup>9</sup> desiccated into sickly cemeteries, comparisons to "apocalyptic" plagues proliferated.<sup>10</sup>

Yet analogies to biblical catastrophes were not the only interpretive frames that diffused to make sense of crisis: many others targeted the European Union (EU) and its laws. But why? The answer helps us retrace how transnational law becomes intertwined with contentious politics and scorned as "descend[ing] on the everyday as an all-powerful outsider."<sup>11</sup> By leveraging newspaper records and semi-structured interviews conducted during Italy's olive crisis, this article "process traces"<sup>12</sup> how failures to reconcile international law with local knowledge can frustrate compliance, foment conspiracy, and foster backlash against transnational legal orders like the EU.

I argue that backlash against the EU legal order during Italy's olive crisis is best understood through an interdisciplinary lens that draws on political sociologies of contentious events and socio-legal theories of legal

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<sup>8</sup> See Alejandra Borunda, *Italy's Olive Trees Are Dying. Can They Be Saved?*, NAT'L GEOGRAPHIC (Aug. 10, 2018), <https://www.nationalgeographic.com/science/2018/08/italy-olive-trees-dying-xylella/#close>; Costas Vasilopoulos, *Thousands of Jobs Lost in Italian Olive Oil Sector, Farmers Group Warns*, OLIVE OIL TIMES (May 6, 2019), <https://www.oliveoiltimes.com/business/europe/thousands-of-jobs-lost-in-italian-olive-oil-sector-farmers-group-warns/67863>; *Xylella, gia 1,2 mld di danni, tempi certi per il decreto*, COLDIRETTI (Jan. 8, 2019), <https://www.coldiretti.it/economia/xylella-gia-12-mld-danni-temp-certi-decreto>; Mark Kinver, *Olive Killer Disease Arrives on Mallorca*, BBC NEWS (Nov. 21, 2016), <https://www.bbc.com/news/science-environment-38050625>.

<sup>9</sup> Flavia Serravezza, *Xylella, il «gigante» di Alliste in agonia: muore dopo 1.500 anni*, LA GAZZETTA DEL MEZZOGIORNO (Aug. 18, 2016), <https://www.lagazzettadelmezzogiorno.it/news/home/793620/xylella-il-gigante-di-alliste-in-agonia-muore-dopo-1-500-anni.html>.

<sup>10</sup> See Jim Yardley, *Fear of Ruin as Disease Takes Hold of Italy's Olive Trees*, N.Y. TIMES (May 11, 2015), <https://www.nytimes.com/2015/05/12/world/europe/fear-of-ruin-as-disease-takes-hold-of-italys-olive-trees.html>.

<sup>11</sup> AUSTIN SARAT & THOMAS R. KEARNS, *LAW IN EVERYDAY LIFE* 8 (Austin Sarat & Thomas R. Kearns eds., 1995).

<sup>12</sup> On process tracing and its application to socio-legal case studies, see generally Tommaso Pavone, *From Marx to Market: Lawyers, European Law, and the Contentious Transformation of the Port of Genoa*, 53 L. SOC'Y REV. 851 (2019).

mobilization.<sup>13</sup> This approach treats political crises as rapidly unfolding events capable of calling existing practices into question and reconstituting people's identities and orientations to the law. When said crises are sparked or exacerbated by a widening gap between legal obligations and lived experience, they can give rise to a social identity forged upon defiance—rather than obeisance—of legal rules.

This process is exemplified in granular detail by the unfolding of the *Xylella* crisis in Puglia. The epidemic prompted interventions by the European Commission and the European Court of Justice (ECJ) to preclude the pathogen's diffusion by soliciting expert scientific opinions and applying EU environmental laws. These measures required eradicating thousands of olive trees. Yet, given limited outreach to local stakeholders and lackluster appreciation of olive trees' significance to everyday life, the EU's containment efforts backfired: Feeling both aggrieved and ignored by distant EU technocrats, farmers organized a revolt and called for deliberate acts of disobedience. This call to action proved so strong that even local judges began trafficking in conspiracy theories to obstruct compliance. Ultimately it was not just trees that desiccated during Italy's olive crisis: the *Xylella* case reveals the process whereby top-down efforts to enforce transnational law can generate a "politics of resentment"<sup>14</sup> corrosive to the "social life"<sup>15</sup> of even well-entrenched legal orders like the EU.

## II. STORM CLOUDS GATHER

While the scientific origins of Italy's olive crisis can be retraced to the import of infected plants from Costa Rica,<sup>16</sup> its political origins lie elsewhere: namely, within an emergent dissonance between the crisis' speedy yet technocratic management within EU circles and the political gridlock and communal trauma that simultaneously ensued within Puglia.

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<sup>13</sup> For exemplary works representative of both approaches, see generally William Sewell, *Historical Events as Transformations of Structures: Inventing Revolution at the Bastille*, 25 THEORY & SOC'Y 841 (1996); MICHAEL MCCANN, *RIGHTS AT WORK: PAY EQUITY REFORM AND THE POLITICS OF LEGAL MOBILIZATION* (1994).

<sup>14</sup> See generally KATHERINE J. CRAMER, *THE POLITICS OF RESENTMENT: RURAL CONSCIOUSNESS AND THE RISE OF SCOTT WALKER* (2016).

<sup>15</sup> By "social life," I mean the degree to which social actors take legal authority for granted in everyday lived experience. See Kim Lane Scheppele, *The Social Life of Constitutions*, in SOCIO. CONSTS. 35 (P. Blokker & C. Thornhill eds., 2017).

<sup>16</sup> Christian Colella, Roberto Calladore & Andrea Cerroni, *Problem Setting and Problem Solving in the Case of Olive Quick Decline Syndrome in Apulia, Italy*, 109(2) PHYTOPATHOLOGY REV. 187, 191 (2019).

Scientists at the University of Bari first detected the pathogen in 2013.<sup>17</sup> Their sense of alarm was immediate: After all, in the Americas, *Xylella* had decimated annual crop yields in Brazil by 36 percent<sup>18</sup> and caused \$104 million in yearly damages to Californian vineyards.<sup>19</sup> In 2000 the European Council had thus classified the pathogen as a prohibited “organism harmful to plants or plant products” in Annex I of Council Directive 2000/29/EC. The directive requires member states to inform the European Commission should *Xylella* be detected upon their territory, empowering the latter to decide which measures should be taken to contain or eradicate the pathogen.<sup>20</sup> Hence once the Commission was alerted of its presence in Puglia on October 21, 2013,<sup>21</sup> it quickly made use of its repertoire for technocratic management of the EU’s single market.

The Commission’s first response was to solicit an urgent scientific opinion from the European Food Safety Authority (“EFSA”) following the procedure laid down in Regulation 178/2002.<sup>22</sup> Within a few weeks, EFSA responded, concluding that “there is an urgent need to put in place measures to prevent the spread of this harmful organism into other parts of the Union.”<sup>23</sup> It identified hundreds of plant species as potential hosts and spittlebugs with a flight range of 100 meters as the vector of diffusion. While awaiting EFSA recommendations for countermeasures, in February 2014, the Commission froze the transport of plants from Puglia to other EU regions.<sup>24</sup> And following scientific reports confirming the spread of *Xylella*,<sup>25</sup> in July,

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<sup>17</sup> See Maria Saponari et al., *Identification of DNA Sequences Related to Xylella Fastidiosa in Oleander, Almond and Olive Trees Exhibiting Leaf Scorch Symptoms in Apulia (Southern Italy)*, 95(3) J. PLANT PATHOLOGY 668 (2013).

<sup>18</sup> Andrea Luivisi, Francesca Nicoli & Luigi De Bellis, *Sustainable Management of Plant Quarantine Pests: The Case of Olive Quick Decline Syndrome*, 9 SUSTAINABILITY 659, 666 (2017).

<sup>19</sup> Yardley, *supra* note 10.

<sup>20</sup> See Council Directive 2000/29 of May 8, 2000, on Protective Measures Against the Introduction into the Community of Organisms Harmful to Plants or Plant Products and Against their Spread Within the Community, 2000 O.J. SPEC. ED. (L 169) 1.

<sup>21</sup> European Food Safety Authority, *Statement of EFSA on Host Plants, Entry and Spread Pathways and Risk Reduction Options for Xylella fastidiosa Wells et al.*, 11(11) EFSA J. 3468, at 4 (2013).

<sup>22</sup> See Regulation (EC) 178/2002 of the European Parliament and of the Council of January 28, 2002, Laying Down the General Principles and Requirements of Food Law, Establishing the European Food Safety Authority and Laying Down Procedures in Matters of Food Safety, 2002 O.J. SPEC. ED. (L 31) 1.

<sup>23</sup> See European Food Safety Authority, *supra* note 21, at 3, 8, 26.

<sup>24</sup> Commission Implementing Decision of February 13, 2014, as Regards Measures to Prevent the Spread Within the Union of *Xylella fastidiosa* (Well and Raju), 2014 O.J. (L 45) 29.

<sup>25</sup> Corrado Cariddi et al., *Isolation of a Xylella Fastidiosa Strain Infecting Olive and Oleander in Apulia, Italy*, 96(2) J. PLANT PATHOLOGY 425 (2014).

the Commission established a buffer zone around the outbreak epicenter where phytosanitary testing had to immediately take place.<sup>26</sup>

By January 2015, EFSA informed the Commission that the eradication of “asymptomatic plants found infected based on sensitive laboratory tests and [neighboring] plants” would have a “high” degree of effectiveness if implemented quickly.<sup>27</sup> The result was another—and the most fateful—Commission decision in May 2015. While all hope of eradication was lost in the outbreak epicenter, the Commission directed Italian authorities within the surrounding buffer zone to “immediately remove” all plants “within a radius of 100 m[eters] around the plants which h[ad] been tested and found to be infected.”<sup>28</sup>

The Commission’s decision to prioritize consultations with EFSA scientists made sense from a legal and technocratic point of view. Yet, its negligible outreach of local stakeholders blinded it to the social trauma that widespread tree eradication would unleash. First, the on-the-ground optics of removal measures were far from favorable: they would predominantly target healthy-looking plants in the buffer zone rather than sickly trees in the outbreak epicenter, since newly afflicted trees often do not show visible symptoms of *Xylella* during their incubation period.<sup>29</sup> A 100-meter radius not only encompassed spittlebugs’ flight distance but also cut across many family-owned groves. Second, treating olive trees primarily as an object of phytosanitary regulation ignored their symbolic resonance in Italian society and in Puglia in particular. The region officializes the cultural importance of olive trees in its flag, wherein a single specimen becomes “a symbol of unity of the entire region, from north to south.”<sup>30</sup> This official status is reinforced by the many rituals of everyday rural life revolving around olive trees. For instance, many southern Italian farmers plant an olive tree to mark the birth of a child, thereby converting it into a living embodiment of their own families.<sup>31</sup>

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<sup>26</sup> Commission Implementing Decision 2014/497 of 23 July 2014, as Regards Measures to Prevent the Introduction and the Spread Within the Union of *Xylella fastidiosa* (Well and Raju), art. 7, 2014 O.J. (L 219) 56, 58.

<sup>27</sup> EFSA Panel on Plant Health, *Scientific Opinion on the Risk to Plant Health Posed by Xylella fastidiosa in the EU Territory, with the Identification and Evaluation of Risk Reduction Options*, 13 EFSA J. 1, 96–97, 102 (2015).

<sup>28</sup> Commission Implementing Decision 2015/789 of 18 May 2015, as Regards Measures to Prevent the Introduction into and the Spread Within the Union of *Xylella fastidiosa* (Wells et al.), art. 6, 2015 O.J. (L 125) 36, 40.

<sup>29</sup> Colella et al., *supra* note 16, at 191–92.

<sup>30</sup> *Stemma della Puglia*, REGIONE PUGLIA: NOTIZIE (Dec. 1, 2012), <http://www.regionepuglia.org/stemma>.

<sup>31</sup> Glen Martin, *What’s Killing the Great Olive Groves of Apulia?*, CAL ALUMNI ASS’N: CAL. MAG. (Aug. 15, 2016, 12:41 PM), <https://alumni.berkeley.edu/california-magazine/just-in/2016-08-15/what-s-killing-great-olive-groves-apulia>.

Local politicians thus found themselves caught in a bind to which the Commission remained blissfully unaware. The platform of the ruling center-left Democratic Party (PD) seemed premised on doing nothing in the absence of “scientific certainty.”<sup>32</sup> The center-right Forza Italia (FI) party deplored the “interminable empty roundabouts” that had precluded “a single euro [from being] sent to farmers.”<sup>33</sup> Yet amidst growing “tumult” in the regional parliament in the summer of 2014, legislation to raise funds to assuage farmers’ damages was promptly defeated.<sup>34</sup> Concerned farmers criticized Italian officials for squabbling and only offering up “words and superficiality.”<sup>35</sup> Yet, at the same time, they were equally suspicious of a transnational intervention coordinated from Brussels, particularly in the aftermath of the sovereign debt crisis and the painful EU-backed austerity measures that followed.<sup>36</sup> Indeed, it did not take long for local grievance to refocus on Europe once the Commission began ordering tree eradications in 2015.

### III. MOBILIZING BACKLASH

As recent political science research has shown, a perception of distributive injustice and lackluster appreciation for lived experience in rural and farming communities can often be mobilized to wage a “politics of resentment.”<sup>37</sup> In Europe and elsewhere, such politics can fuel populist parties and social movements organizing backlash against the authority claims of transnational legal orders.<sup>38</sup> It is precisely this political process that

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<sup>32</sup> Daniela Pastore, «Non toccate gli ulivi E no a bombardamento con farmaci e pesticidi», LA GAZZETTA DEL MEZZOGIORNO (Aug. 23, 2014), <https://www.lagazzettadelmezzogiorno.it/news/home/580078/non-toccate-gli-ulivi-e-no-a-bombardamento-con-farmaci-e-pesticidi.html>.

<sup>33</sup> *Mozione di sfiducia di Fi «L'assessore Nardoni punisce nostra agricoltura» «Accuse e attacchi ignobili»*, LA GAZZETTA DEL MEZZOGIORNO (Oct. 22, 2014), <https://www.lagazzettadelmezzogiorno.it/news/bari/597387/mozione-di-sfiducia-di-fi-l-assessore-nardoni-punisce-nostra-agricoltura-accuse-e-attacchi-ignobili.html>.

<sup>34</sup> *Contro la moria degli ulivi presto altri fondi in Puglia*, LA GAZZETTA DEL MEZZOGIORNO (July 31, 2014), <https://www.lagazzettadelmezzogiorno.it/news/lecce/574381/contro-la-moria-degli-ulivi-presto-altri-fondi-in-puglia.html>.

<sup>35</sup> Antonello Fiore, *Troppi ritardi per fronteggiare la «Xylella fastidiosa»*, VILLAGGIO GLOBALE (Aug. 12, 2014), <https://www.vglobale.it/2014/08/12/troppi-ritardi-per-fronteggiare-la-xylella-fastidiosa/>.

<sup>36</sup> See generally Martin J. Bull, *In the Eye of the Storm: The Italian Economy and the Eurozone Crisis*, 23 S. EUR. SOC’Y & POL. 13 (2018).

<sup>37</sup> CRAMER, *supra* note 14, at 12.

<sup>38</sup> See generally Samantha Call & Seth Jolly, *Euro-scepticism in the Populism Era*, 82 J. POL. e7 (2020).



was triggered by efforts to apply and enforce EU law during Italy's olive crisis.

More precisely, there were at least two proximate triggers of a farmers' revolt against the EU. First, a local environmental NGO released a highly publicized report to the EU health commissioner containing undated online videos refuting EFSA's findings and accusing the Commission of "condemning to death the whole Apulia eco-system."<sup>39</sup> While the report was summarily dismissed in Brussels, in Puglia it made rounds on social media. Simultaneously, allegations that the epidemic had actually been deliberately unleashed by local and EFSA-affiliated scientists began flooding Bari's police headquarters. These conspiracies were then reported by local newspapers<sup>40</sup> and crystallized popular distrust of claims to expertise.

These narratives began reframing *Xylella* from an epidemic into a transnational crime against Puglia and its culture. As these frames diffused, local politicians and judges faced increasing pressure to call EU legal obligations into question. For instance, when farmers confronted the President of the Puglia region—the center left's Michele Emiliano—in front of reporters, Emiliano flipped from declaring "no alternative"<sup>41</sup> to compliance to promising to "go to Brussels himself to defend Salento's olive trees."<sup>42</sup> A few mayors subsequently joined in, calling on local prosecutors to investigate allegations that some entities "meant to permit the diffusion of the epidemic."<sup>43</sup> Judges succumbed to these calls to action when Lecce's public prosecutor (a judicial office in the Italian legal system) opened a criminal investigation against scientists at the University of Bari and Giuseppe Silletti, the special commissioner appointed in February 2015<sup>44</sup> to manage the epidemic. In a fiery press conference, prosecutors charged that "there is no causal nexus between the drying [of olive trees] and infection by

<sup>39</sup> Alvisè Armellini, *EU Divided Over Italy's Olive Tree Disease*, EUOBSERVER (Mar. 28, 2015, 11:38 AM), <https://euobserver.com/beyond-brussels/128183>.

<sup>40</sup> See generally Alison Abbott, *Italian Scientists Vilified in Wake of Olive-Tree Deaths*, 522 NATURE 13 (2015).

<sup>41</sup> Vincenzo Chiumarulo, *Xylella, il Tar blocca anche il Piano Silletti bis*, LA REPUBBLICA (Oct. 13, 2015), <https://bari.repubblica.it/cronaca/2015/10/13/news/xylella-124969258/>.

<sup>42</sup> Chiara Spagnolo, *Xylella, la Ue mette di nuovo sotto accusa l'Italia: "Troppiritardi per fermarla"*, LA REPUBBLICA (July 22, 2016), [https://bari.repubblica.it/cronaca/2016/07/22/news/xylella\\_la\\_ue\\_mette\\_di\\_nuovo\\_sotto\\_accusa\\_l\\_italia\\_inapplicata\\_le\\_misure\\_per\\_fermarla\\_-144622078/](https://bari.repubblica.it/cronaca/2016/07/22/news/xylella_la_ue_mette_di_nuovo_sotto_accusa_l_italia_inapplicata_le_misure_per_fermarla_-144622078/).

<sup>43</sup> Bepi Castellaneta & Francesca Mandese, *Xylella, Siletta gela I sindaci, «Il piano tagli non si tocca»*, CORRIERE DEL MEZZOGIORNO (Oct. 13, 2015), [https://corrieredelmezzogiorno.corriere.it/bari/cronaca/15\\_ottobre\\_13/xylella-tar-lazio-accoglie-ricorso-stop-tagli-ulivi-torchiarolo-616e91be-7187-11e5-8a35-85b57ae5d6f8.shtml](https://corrieredelmezzogiorno.corriere.it/bari/cronaca/15_ottobre_13/xylella-tar-lazio-accoglie-ricorso-stop-tagli-ulivi-torchiarolo-616e91be-7187-11e5-8a35-85b57ae5d6f8.shtml).

<sup>44</sup> Following a declaration of a state of emergency by Prime Minister Matteo Renzi on February 10, 2015. See Joined Cases C-78/16 & C-79/16, *Pesce and Others v. Presidenza del Consiglio dei Ministri* 2016 ECLI:EU:C:2016:428, ¶¶ 47, 70 (June 9, 2016).

*Xylella fastidiosa*,”<sup>45</sup> adding that collusion with powerful multinationals was plausible.<sup>46</sup> While the investigation would ultimately exonerate all accused, for four years it undermined the scientific consensus upon which EU intervention rested. And by promptly sequestering all infected trees scheduled for removal as “evidence”<sup>47</sup> in the criminal inquiry, prosecutors effectively forbade compliance with the Commission’s decisions.

Judicial defiance of EU law created a political opportunity and focal point around which aggrieved local farmers could organize a revolt. In April 2015, seventy farmers and environmental activists set up tents, forged human shields, and climbed atop trees marked for eradication, shouting: “Assassins, those olive trees have more history than us all!”<sup>48</sup> The owner of the trees in question wrote a letter published by Puglia’s leading newspaper, *La Gazzetta Del Mezzogiorno*, which dramatized it as a “call for help” against “savage” EU measures.<sup>49</sup> A few months later, farmers organized a protest before Bari’s city hall: “This is a declaration of war!” they chanted in reference to the Commission decision, adding: “And we’re ready to fight!” Protesters simultaneously blocked traffic along the highway connecting Brindisi and Lecce, triggering a police roundup.<sup>50</sup> Carnival festivities in city squares were replaced with funeral marches as families of farmers dressed up as olive trees and held up signs reading: “I’m healthy . . . xylella is in your head.”<sup>51</sup> And sympathetic journalists mimicked these frames in their editorials, charging

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<sup>45</sup> *Xylella, si è dimesso il commissario Siletti: è indagato a Lecce con alter nove persone*, LA REPUBBLICA (Dec. 24, 2015), [https://bari.repubblica.it/cronaca/2015/12/24/news/dimissioni\\_sillettii-130098450/?refresh\\_ce](https://bari.repubblica.it/cronaca/2015/12/24/news/dimissioni_sillettii-130098450/?refresh_ce).

<sup>46</sup> Antonio Sanfrancesco, *Xylella, Svolta Nell’Inchiesta: Sequestrati GLI Ulivi Da Abbattere e 10 Indagati*, FAMIGLIA CRISTIANA (Dec. 18, 2015), <https://m.famigliacristiana.it/articolo/xylella-svolta-nell-inchiesta-sequestrati-gli-ulivi-da-abbattere-e-10-indagati.htm>.

<sup>47</sup> Chiara Spagnolo, *Xylella, la Corte UE da il via libera all’abbattimento ulivi nel Salento: legittimo anche per piante sane*, LA REPUBBLICA (June 9, 2016), <https://bari.repubblica.it/cronaca/2016/06/09/news/xylella-141620317/>; Skype Interview with Giovanni Pesce, Lawyer, Studio Legale BDL, in Rome, It. (Aug. 18, 2017).

<sup>48</sup> *Xylella, ulivi secolar abbattuti a Oria. La Rabbia Dei Cittadini: “Quegli Alberi Hanno Piu Storia Di Tutti Noi”*, FAMIGLIA CRISTIANA.IT (Apr. 13, 2015), <https://www.famigliacristiana.it/fotogallery/xylella-a-oria-sradicati-i-primi-ulivi-tra-le-proteste.aspx>.

<sup>49</sup> Brindisi, *Lettera ad Emiliano Aiuto contro le eradicazioni selvagge per la Xylella*, LA GAZZETTA DEL MEZZOGIORNO (June 6, 2015), <https://www.lagazzettadelmezzogiorno.it/news/home/657867/lettera-ad-emiliano-aiuto-contro-le-eradicazioni-selvagge-per-la-xylella.html>.

<sup>50</sup> Di Redazione, *Il Tar del Lazio blocca le ruspe, ma la rabbia dei contadini non si placa ‘Pronti a combattere’* LECCENEWS24.IT (Oct. 13, 2015), <http://www.leccenews24.it/attualita/il-tar-del-lazio-blocca-le-ruspe-ma-la-rabbia-dei-contadini-non-si-placa-pronti-a-combattere-.htm>.

<sup>51</sup> Gianvito Rutigliano, *Xylella, il Carnevale salentino col funerale degli ulivi*, LA REPUBBLICA (Feb. 8, 2016), [https://bari.repubblica.it/cronaca/2016/02/08/foto/xylella\\_il\\_carnevale\\_salentino\\_col\\_funerale\\_degli\\_ulivi-132997646/1/#1](https://bari.repubblica.it/cronaca/2016/02/08/foto/xylella_il_carnevale_salentino_col_funerale_degli_ulivi-132997646/1/#1).

the EU's "diktats" with perpetrating a "massacre of olive trees" that would "cancel a deep part of [the] local identity."<sup>52</sup>

This repertoire of contentious politics may seem melodramatic or outlandish. But "the uproar highlighted the deep distrust" of many farmers<sup>53</sup> desperate to make sense of trauma, attribute blame, and privilege "experience-based-expertise" over the "imposition of mandatory policies."<sup>54</sup> Olive growers sometimes interrupted news reportage to convey their sense of indignation on-camera: how could the EU claim that "the lands worked by [their] father[s] and grandfather[s] and the older generations could possibly be broken by a bacteria?"<sup>55</sup> For the first three years of the olive crisis, these emotions and histories embodied in the olive trees were only taken seriously by farmers and environmental activists, who recognized the importance of waging a "politics of local knowledge."<sup>56</sup>

As we will see, EU institutions and scientific experts eventually concluded that top-down technocratic management would prove futile in the absence of bottom-up politics involving local stakeholders. Yet by 2015 and 2016, the farmers' revolt had already sparked what political sociologists refer to as a period of "thickened history" and an "eventful temporality."<sup>57</sup> These constitute compressed and dynamic moments of contentious politics when cultural schemas, everyday habits, and claims to authority are challenged and cease to be taken for granted. By the time that transnational legal actors came to terms with the rapidly shifting political context in Puglia, farmers had already succeeded in supplanting passive submission to EU legal authority with a collective identity forged through deliberate acts of disobedience.

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<sup>52</sup> Tiziana Colluto, *Strage ulivi in Puglia, il diktat Ue: "Abbatere tutti gli alberi infetti"*, IL FATTO QUOTIDIANO (March 17, 2015), <https://www.ilfattoquotidiano.it/2015/03/17/strage-ulivi-in-puglia-diktat-ue-abbattere-tutti-gli-alberi-infetti/1512425/>; Agnese Tondelli, *Xylella: l'Ue impone la strage degli ulivi in Puglia. Anche di quelli sani*, AMBIENTE BIO (June 20, 2016), [http://www.ilcambiamento.it/articoli/ulivi\\_puglia\\_xylella\\_frode](https://www.ambientebio.it/?s=Xylella%3A+l%27Ue+impone+la+strage+degli+ulivi+in+Puglia; Redazione, No al massacro degli ulivi in Puglia: «Frode speculativa e procurator allarme»</a>, IL CAMBIAMENTO (Apr. 16, 2015), <a href=).

<sup>53</sup> Borunda, *supra* note 8.

<sup>54</sup> Colella et al., *supra* note 16, at 192.

<sup>55</sup> See *Terra!*, *supra* note 7.

<sup>56</sup> FRANK FISCHER, CITIZENS, EXPERTS, AND THE ENVIRONMENT 80 (2000).

<sup>57</sup> See generally Rogers Brubaker, *Rethinking Nationhood: Nation as Institutionalized Form, Practical Category, Contingent Event*, 4(1) CONTENTION 3–14 (1994) for a conceptualization of "eventful temporality" and its relationship to social identity and political action. See also WILLIAM H. SEWELL, LOGICS OF HISTORY: SOCIAL THEORY AND SOCIAL TRANSFORMATION 100 (2005); MARK R. BEISSINGER, NATIONALIST MOBILIZATION AND THE COLLAPSE OF THE SOVIET STATE 100 (Margaret Levi et al. eds., 2002); Pavone, *supra* note 12, at 851–88.

#### IV. THE TRIALS AND TRIBULATIONS OF NONCOMPLIANCE

The stage was thus set for Act II of Italy's olive crisis, where the European Court of Justice intervened and unintentionally added fuel to the fire.

In late 2015 and 2016, local lawyers sympathetic to the farmers' plight sought to complement contentious politics in the public sphere with a defiant litigation campaign in court. The first lawsuit was lodged by Giovanni Pesce, a lawyer whose olive grove had served as the stage for the first clash between farmers and municipal authorities in April 2015.<sup>58</sup> Pesce felt that he and his neighbors were victims of "a mass and indiscriminate eradication" of possibly nefarious origins, given the criminal inquiry underway in Lecce. The "forceful side" of EU law was being weaponized "without sufficient explanation . . . without considering the emotional and cultural aspect of the case. Only technocratic evaluations bore any weight."<sup>59</sup> The second lawsuit was lodged in October 2015 by three lawyers—Mariano Alterio, Mario Tagliaferro, and Nicola Grasso—on behalf of nearly two dozen farmers from a town whose mayor had called for a criminal investigation into the management of the crisis.<sup>60</sup> "One perceives that the policies from Brussels exacerbate a very local situation," Alterio lamented in an interview. "They couldn't care less," Grasso added; "It's not like if you remove a 200 or 300-year-old olive tree and you replace [it] with a new plant that you have the same thing . . . for the preservation of the landscape, of a thousand-year-old cultural identity."<sup>61</sup>

These suits were thus framed to channel the burgeoning public perception that EU policies were spiteful of local practice and the embodied history of olive trees. But for litigation to succeed, Italian judges had to be persuaded to take these claims seriously. Thus, in their memos lodged before the regional administrative court in Rome, the lawyers alleged that "nobody really knows the content" of the "supposed 'investigations'" driving the Commission decisions, whose implementation would turn "the entire communal territory into a desert." And they added that tree eradication would be "futile, given the lack of scientific proof of the relationship between [tree] drying and the presence of *xylella*."<sup>62</sup> In so doing, they asked the judges to

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<sup>58</sup> Skype Interview with Giovanni Pesce, Lawyer, Studio Legale BDL, in Rome, It. (Aug. 18, 2017).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Interview with Mariano Alterio, Attorney, Studio Legale Alterio in Bari, It. and Nicola Grasso, Professor of Law, Univ. of Salento (Mar. 23, 2017).

<sup>62</sup> Alterio, Mariano, "Memoria, Sezione I - nr. 11728/2015," November 29, 2015, at 7–8 (on file with author).

annul the emergency decree implementing the Commission decision and to refer the case to the European Court of Justice (following Article 267 of the Treaty on the Functioning of the European Union (TFEU)),<sup>63</sup> where they could challenge the validity of EU law outright.

The lawsuits succeeded in persuading Italian judges: in January 2016, the Roman court suspended the regional implementation of the Commission decisions and solicited the ECJ, given that it “shared the doubts brought forth by the plaintiffs.”<sup>64</sup> In so doing, it legitimated efforts by prosecutors in Lecce to obstruct the implementation of EU law. Yet predictably, this litigation campaign hit a wall before the European Court, which deferred to the Commission. By interpreting the precautionary principle in EU environmental law to permit restrictive measures in the absence of scientific certainty, the Court concluded that “if attainment of [eradication] requires that not only the infected plants but also nearby host plants be removed, even if they do not show any symptoms . . . [the Commission] is empowered to impose such a measure.”<sup>65</sup>

The primary—albeit unintended—impact of the European Court’s decision was to exacerbate the chasm between the EU’s technocratic management of the olive crisis and the contentious politics unfolding on the ground. For whereas farmers believed that it was olive groves and local identity that required protection, the ECJ rebutted that the prevailing “public interest [was] safeguarding effective protection of EU territory . . . against the spread of the bacterium.”<sup>66</sup>

The reaction of local stakeholders was one of shock and anger. The press in Lecce described the ECJ’s ruling as an “axe” striking the “people of the olive trees” like a “lightning bolt from the blue sky.”<sup>67</sup> In Bari, the largest daily paper published a political cartoon where an olive tree was made to resemble Munch’s famous “Scream” painting.<sup>68</sup> Politicians were equally

<sup>63</sup> Article 267 lays out what is known as the “preliminary reference procedure,” whereby a national court having doubts as to the application (or validity) of EU law in the case before it may (and sometimes must) refer the case to the European Court of Justice for an authoritative judgement. For a comprehensive overview of the procedure, see generally MORTEN BROBERG & NIELS FENGER, *PRELIMINARY REFERENCES TO THE EUROPEAN COURT OF JUSTICE* (2014).

<sup>64</sup> *Xylella, il Tar del Lazio invia gli atti alla Corte di Giustizia Ue*, RAINews (Jan. 22, 2016), <http://www.rainews.it/dl/rainews/articoli/Xylella-il-Tar-Lazio-manda-gli-atti-alla-Corte-di-Giustizia-Ue-4d1f5c12-6109-41db-8f79-e7341c63b9c1.html>.

<sup>65</sup> *Joined Cases C-78/16 & C-79/16, Pesce and Others v. Presidenza del Consiglio dei Ministri* 2016 ECLI:EU:C:2016:428, ¶¶ 47, 70 (June 9, 2016).

<sup>66</sup> *Id.* ¶ 74.

<sup>67</sup> *Contro la scure della Corte di Giustizia Europea, il popolo degli ulivi scende in piazza*, LECCENEWS24.IT (June 11, 2016, 6:30 PM), <https://www.leccenews24.it/politica/contro-la-scure-della-corte-di-giustizia-europea-il-popolo-degli-ulivi-scende-in-piazza.htm>.

<sup>68</sup> Nico Pillinini, *il nuovo piano anti-Xylella la decisione di Lussemburgo “disporre le nuove estirpazioni, eliminare anche gli ulivi non malati!!”*, LAGAZZETTADELMEZZOGIORNO.IT (June 10, 2016,

indignant. The center-right FI party shed its initial support for an EU intervention, admonishing the ECJ for attacking “those elements most emblematic of our identity” and promising to “block the demolition cranes and pit ourselves against the absurd and unthinkable decisions of EU judges.” Members of the populist M5S piled on, claiming that “Europe is first and foremost responsible for the Xylella disaster.”<sup>69</sup>

Such public anger worked to sustain and embolden the farmers’ revolt. A day after the ECJ’s judgment, farmers and environmental activists took to the streets in Lecce, carrying signs reading that Puglia was “once again under attack . . . but we won’t surrender.”<sup>70</sup> And as their repertoire of contentious politics spread with every protest, tree funeral,<sup>71</sup> and the “most incredible conspiracy theories,”<sup>72</sup> local support for the EU—already low (44 percent) in May 2015—plummeted to an abysmal 19 percent in May 2016 and 27 percent in November 2016.<sup>73</sup>

## V. CONSEQUENCES, IMPLICATIONS, AND SILVER LININGS

In the final analysis, the farmers’ revolt during Italy’s olive crisis achieved its obstructionist goals: the decisions of the European Commission and the ECJ’s confirmatory judgment have scarcely been implemented to this day. As a consequence, *Xylella* spread into a number of European states, and the EU’s on-the-ground legal authority was severely damaged. Yet the devastation brought by the crisis eventually bore some silver linings, prompting EU officials to rethink their approach and sparking a counter-movement within Italy advocating compliance with transnational law.

First, as the farmers’ revolt was emboldened by criminal inquiries, injunctions, defiant litigation campaigns, and foot-dragging by elected officials, EU law was never converted into local practice. While Lecce’s prosecutors begrudgingly lifted their sequestration of thousands of trees

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5:00 PM), <https://www.lagazzettadelmezzogiorno.it/blog/nico-pillinini/766591/il-nuovo-piano-anti-Xylella-la.html>.

<sup>69</sup> *Xylella, la Corte UE: ‘sì’ all’obbligo di eradicazione degli ulivi potenzialmente infetti*, LECCENEWS24.IT (June 9, 2016, 9:56 PM), <https://www.leccenews24.it/politica/xylella-la-corte-ue-si-all-obbligo-di-eradicazione-degli-ulivi-potenzialmente-infetti.htm>.

<sup>70</sup> See generally *Contro la scure della Corte di Giustizia Europea, il popolo degli ulivi scende in piazza*, *supra* note 67.

<sup>71</sup> Sonia Gioia, *Xylella, abbattuto l’albero infetto a Ostuni: “Corsa contro il tempo per salvare gli ulivi millenari”*, LA REPUBBLICA (Oct. 26, 2016), [https://bari.repubblica.it/cronaca/2016/10/26/news/brindisi\\_abbattuto\\_ulivo\\_colpito\\_da\\_xylella-150604701/](https://bari.repubblica.it/cronaca/2016/10/26/news/brindisi_abbattuto_ulivo_colpito_da_xylella-150604701/).

<sup>72</sup> Antonello Cassano, *L’incubo xylella nell’eden degli ulivi*, LA REPUBBLICA (Oct. 21, 2016).

<sup>73</sup> See Tommaso Pavone, *The Ghostwriters: Lawyers and the Politics Behind the Judicial Construction of Europe* 356 (2019) (unpublished Ph.D dissertation, Princeton University) (ProQuest).

following the ECJ's decision, in January 2018, prosecutors in Bari once again sequestered an olive grove by resurrecting conspiratorial charges.<sup>74</sup> It took three more years for judges in Lecce to lift criminal allegations hanging over the heads of the scientists they had accused of deliberately spreading the disease and diffusing misinformation.<sup>75</sup> And instead of the tens of thousands of trees identified for immediate removal in late 2014 and early 2015 alone, in practice less than 2,000 were fallen through 2017.<sup>76</sup> This inaction exacerbated the rift with the Commission, which sent repeated letters to the Italian government urging compliance to no avail. Hence in 2018, Commissioners launched an infringement proceeding against Italy, threatening to withdraw crucial agricultural subsidies given that "Italian authorities failed to fully comply with the EU rules."<sup>77</sup>

As a result, *Xylella* steadily progressed: by 2019, the estimated number of dead trees spun nearly 20 percent of Puglia's olive groves, with 10 million additional trees under imminent threat.<sup>78</sup> With nearly half a million acres of groves destroyed,<sup>79</sup> Italian olive oil production plummeted by 50 percent (65 percent in Puglia) through 2019,<sup>80</sup> producing a loss of up to 100,000 jobs.<sup>81</sup> The olive crisis grew into a truly transnational epidemic as the pathogen spread to France in 2015,<sup>82</sup> Spain in 2016,<sup>83</sup> and Portugal in 2019.<sup>84</sup> Scientists

<sup>74</sup> Chiara Spagnolo, *Xylella, la Procura dissequestra 2.223 ulivi infetti nelle campagne fra Brindisi e Lecce*, LA REPUBBLICA, (July 28, 2016), [https://bari.repubblica.it/cronaca/2016/07/28/news/xylella\\_dissequestrati\\_ulivi\\_salento-144968907/](https://bari.repubblica.it/cronaca/2016/07/28/news/xylella_dissequestrati_ulivi_salento-144968907/); *Xylella, pm Bari dissequestra ulivo infetto ma non il terreno*, LA GAZZETTA DEL MEZZOGIORNO (Apr. 10, 2019), <https://www.lagazzettadelmezzogiorno.it/news/bari/1130330/xylella-pm-bari-dissequestra-ulivo-infetto-ma-non-il-terreno.html>.

<sup>75</sup> Giovanni Drogo, *Xylella, la Procura di Lecce smentisce sé stessa e l'inchiesta viene archiviata*, NEXT QUOTIDIANO (May 7, 2019, 4:14 PM), <https://www.nextquotidiano.it/xylella-procura-di-lecce-archiviazione/>.

<sup>76</sup> Michelangelo Borillo, *Così si Batte la Xylella*, CORRIERE DELLA SERA 26 (May 8, 2017).

<sup>77</sup> European Commission Press Release IP/18/3805, *Infringements: Commission Refers Italy to Court Over its Failure to Adequately Prevent Further Spread of the Quarantine Harmful Organism 'Xylella Fastidiosa' in Apulia* (May 17, 2018), [http://europa.eu/rapid/press-release\\_IP-18-3805\\_en.htm](http://europa.eu/rapid/press-release_IP-18-3805_en.htm).

<sup>78</sup> See generally Borunda, *supra* note 8; *Filiera olio da Di Maio, persi 100mila posti di lavoro*, COLDIRETTI (Apr. 1, 2019), <https://www.coldiretti.it/lavoro/filiera-olio-maio-persi-100mila-posti-lavoro>.

<sup>79</sup> Daniel Dawson, *UN Issues New Standards to Curb Spread of Xylella*, OLIVE OIL TIMES (Apr. 5, 2019), <https://www.oliveoiltimes.com/business/un-issues-new-standards-to-curb-spread-of-xylella/67572>.

<sup>80</sup> See generally *Filiera olio da Di Maio*, *supra* note 78.

<sup>81</sup> See generally Vasilopoulos, *supra* note 8.

<sup>82</sup> Isabel Putinja *Xylella Fastidiosa Continues to Spread in Corsica*, OLIVE OIL TIMES (Feb. 19, 2016), <https://www.oliveoiltimes.com/business/north-america/xylella-fastidiosa-continues-to-spread-in-corsica/50557>.

<sup>83</sup> Reda Atoui, *Xylella Fastidiosa Bacterium Arrives in Spain*, OLIVE OIL TIMES (Nov. 27, 2016), <https://www.oliveoiltimes.com/business/ebola-olive-trees-arrives-spain/53698>.

<sup>84</sup> *First Identification of Xylella Fastidiosa in Portugal*, XF-ACTORS (Jan. 10, 2019), [https://www.xfactorsproject.eu/press\\_review/first-identification-of-xylella-fastidiosa-in-portugal/](https://www.xfactorsproject.eu/press_review/first-identification-of-xylella-fastidiosa-in-portugal/).

now believe that “Southern Italy is becoming a reservoir” for *Xylella* such that it will never be eradicated in the EU.<sup>85</sup>

The failure to reconcile EU legal obligations with local knowledge also produced a partially concealed socio-legal effect. In over two dozen interviews with lawyers and judges in Puglia as the olive crisis was ongoing, they repeatedly conveyed how the crisis had bolstered Euroskepticism and bred reluctance to invoke EU law. Even those judges approving EU actions confessed how they “fear[ed] that the perception . . . won’t be as benevolent . . . [for] the Euroskeptic perspective is common to the local population and the judicial authorities.”<sup>86</sup> Others feared “that the ECJ decision could be instrumentalized as an ‘interference’” that “negatively impact[s] local interests.”<sup>87</sup> The emergent chasm between transnational law and lived experience thus also afflicted legal practitioners: in the words of the former President of the Bari bar, the olive oil crisis “makes Europe feel far away, far away from the people . . . olive oil—as is known—floats on water.”<sup>88</sup>

At the same time, the unquestionable devastation wrought by *Xylella* eventually forced self-reflection upon all parties concerned. In 2017, the Commission issued a new decision that explicitly acknowledged the importance of safeguarding local knowledge and lived experience. The decision amended its tree removal requirements by introducing a telling exception: “In order to respect the tradition and history of a particular location, Member States should have the option to decide that host plants officially designated as plants of historic value do not need to be removed if they are not infected with the specified organism.”<sup>89</sup> EFSA-affiliated scientists similarly conceded that “[i]n retrospect, social turmoil should have been expected . . . The EC aims to address the threats of *X. fastidiosa* as a plant pathogen . . . [b]ut the reality to Apulians is different: Cutting down their olive trees means destroying the physical embodiment of their families and history.”<sup>90</sup> In response, the Commission funded a new project, *XF-ACTORS*, aiming to fight *Xylella* by pairing a “Scientific Committee” with a “Stakeholder Board to ensure the consortium takes into account that the

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<sup>85</sup> Giovanni Strona, Corrie Jacobien Carstens & Pieter S.A. Beck, *Network Analysis Reveals Why Xylella Fastidiosa Will Persist in Europe*, 7 SCI. REPS. 71, 1 (2017).

<sup>86</sup> E-mail interview with Teresa Liuni, Judge, Court of Appeal of Bari (May 18, 2017) (on file with author).

<sup>87</sup> E-mail interview with Giovanni Zaccaro, Judge, Tribunal of Bari (May 21, 2017) (on file with author); E-mail from Enrico Scoditti, Ex-judge, Tribunal of Bari (May 18, 2017) (on file with author).

<sup>88</sup> E-mail interview with Emmanuele Virgintino, President (2008–15), Bari Bar Association (May 26, 2017) (on file with author).

<sup>89</sup> Commission Implementing Decision (EU) 2017/2352 of 14 December 2017, Amending Implementing Decision (EU) 2015/789 As Regards Measures to Prevent the Introduction into and the Spread Within the Union of *Xylella Fastidiosa* (Wells et al.), 2017 O.J. (L 336) 31, 32.

<sup>90</sup> Rodrigo P.P. Almeida, *Can Apulia’s Olive Trees be Saved?*, 353 SCI. 346, 347 (2016).



interest of the stakeholders and end-users.”<sup>91</sup> Since 2017, *XF-ACTORS* has sponsored numerous joint-seminars with farmers, environmentalists, and municipal authorities in Puglia.<sup>92</sup>

Recently these developments helped foster the emergence of a counter-movement amongst the farmers themselves: the *gilet arancioni*, inspired by the *gilets jaunes* protests in France. Three thousand of them rode tractors into Bari in January 2019, decrying obstructionist politics and the “immobilism” of Italy’s new populist government.<sup>93</sup> When a local judge once again sequestered an olive tree in the same month, they organized a protest acknowledging how “these sequestrations led the way to the pathogen’s advance.”<sup>94</sup> These counter-protests prompted another about-face by Puglia’s President, who now backed tree removals and characterized prosecutors’ criminal inquiries as “infelicitous.”<sup>95</sup> A few months later, thousands of *gilets* marched in Rome carrying olive branches and demanding compensation,<sup>96</sup> which was finally appropriated by the Italian Parliament in May 2019.<sup>97</sup>

None of these developments will turn back the clock on a half-decade of contentious backlash and judicial noncompliance with European law. But they do suggest that as those mobilizing a politics of backlash against transnational legal orders begin trafficking in illusion and conspiracy, sooner or later they too may be forced to reckon with the realities they unleash.

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<sup>91</sup> *A New EU Project Starts in November: XF-Actors*, XF-ACTORS (Feb. 12, 2016), <https://www.xfactorsproject.eu/ciao-mondo/>. The project is funded by the European Commission’s Horizon 2020 program.

<sup>92</sup> See, e.g., *The Latest Scientific Information on Xylella Discussed at a Seminar in Bari*, XF-ACTORS (Mar. 28, 2018) <https://www.xfactorsproject.eu/information-xylella-seminar-bari/>.

<sup>93</sup> Giuseppe Gabrieli, *A Bari 3mila gilet arancioni, sfila la rabbia degli agricoltori contro il governo*, *M5s: “Scusateci”*, LA REPUBBLICA (Jan. 7, 2019), [https://bari.repubblica.it/cronaca/2019/01/07/news/gilet\\_arancioni\\_bari-216005364/](https://bari.repubblica.it/cronaca/2019/01/07/news/gilet_arancioni_bari-216005364/).

<sup>94</sup> *Xylella, la Rabbia di Agricoltori e Sindaci a Monopoli. Sequestrato un ulivo infetto: «Adesso basta»*, LA GAZZETTA DEL MEZZOGIORNO (Jan. 13, 2019) <https://www.lagazzettadelmezzogiorno.it/news/home/1100299/xylella-la-rabbia-di-agricoltori-e-sindaci-a-monopoli-sequestrato-un-ulivo-infetto-adesso-basta.html>.

<sup>95</sup> *Xylella, Emiliano: «L’inchiesta della Procura di Lecce non è stata felice»*, QUOTIDIANO DI PUGLIA (Jan. 15, 2019), [https://www.quotidianodipuglia.it/regione/xylella\\_emiliano\\_inchiesta\\_procura\\_lecce-4232929.html](https://www.quotidianodipuglia.it/regione/xylella_emiliano_inchiesta_procura_lecce-4232929.html).

<sup>96</sup> *Gilet Arancioni Invadono Roma: migliaia di agricoltori pugliesi conto il Governo*, LA GAZZETTA DEL MEZZOGIORNO (Feb. 14, 2019), <https://www.lagazzettadelmezzogiorno.it/gallery/photonews/1111279/gilet-arancioni-invadono-roma-migliaia-di-agricoltori-pugliesi-contro-il-governo.html>.

<sup>97</sup> Maria Claudia Minerva, *Xylella, firmato il decreto emergenze*, QUOTIDIANO DI PUGLIA (May 27, 2019), [https://www.quotidianodipuglia.it/regione/xylella\\_decreto\\_ministro\\_firma\\_ulivi-4519069.html](https://www.quotidianodipuglia.it/regione/xylella_decreto_ministro_firma_ulivi-4519069.html).