

Action brought on 7 December 2022 — Kesaev v Council

(Case T-763/22)

(2023/C 35/98)

*Language of the case: Dutch***Parties**

Applicant: Igor Albertovich Kesaev (Usovo, Russia) (represented by: R. Moeyersons and A. De Jonge, lawyers)

Defendant: Council of the European Union

Form of order sought

- annul Council Decision (CFSP) 2022/1530 ⁽¹⁾ of 14 September 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, as implemented by Council Implementing Regulation (EU) 2022/1529 ⁽²⁾ of 14 September 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, to the extent that they concern Kesaev; cancel the extension of the individual sanctions in respect of Kesaev, and remove Kesaev from the list in Annex I to Regulation No 269/2014; ⁽³⁾
- order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the grounds for the applicant's inclusion on the sanctions list is factually incorrect and/or irrelevant.
 - first branch: the applicant is not active in specifically those economic sectors that constitute a significant source of income for the Government of the Russian Federation;
 - second branch: the applicant does not support or implement actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine or its stability or security. The applicant is not a shareholder of JSC Detyarev Plant;
 - third branch: the applicant does not materially or financially support the Government of the Russian Federation. The Monolit Fonds is a politically neutral charitable organisation and the medals and rewards received do not constitute evidence of material or financial support to the targeted Government of the Russian Federation;
 - fourth branch: the applicant does not benefit from the Government of the Russian Federation. Neither via the Monolit Fonds nor by any other means does the applicant benefit economically or otherwise from the Government of the Russian Federation;
 - fifth branch: the cited facts are obsolete, dated and irrelevant to proceed with (extension of the) sanctioning of the applicant;
 - sixth branch: the Council does not satisfy the burden of proof incumbent upon it. The Council relies exclusively, after all, on biased, incorrect and unverified information sources. There is no objective, trustworthy evidence for the Council's claims.
2. Second plea in law, alleging that the applicant has never been heard or properly informed — violation of the right to a fair trial.

3. Third plea in law, alleging that the inclusion of the applicant on the sanctions list is contrary to the Charter of Fundamental Rights of the European Union — infringement of Articles 6, 8, 16 and 17, in combination with Article 52 of the Charter.
4. Fourth plea in law, alleging that the terminology used in Decision (CFSP) 2022/329 ⁽⁴⁾ is so vague that the application of the decision becomes arbitrary — breach of the principle of legal certainty.
5. Fifth plea in law, alleging that the sanctioning is based on discrimination. People in comparable situations are not sanctioned, the applicant is sanctioned merely because he is a 1) rich, 2) politically neutral and 3) Russian businessman.
6. Sixth plea in law, alleging that the Council must be ordered to pay the costs in any event, since the applicant felt obliged to institute the present proceedings because the Council has not yet acted on his request for review.

⁽¹⁾ OJ 2022 L 239, p. 149.

⁽²⁾ OJ 2022 L 239, p. 1.

⁽³⁾ Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

⁽⁴⁾ Council Decision (CFSP) 2022/329 of 25 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 50, p. 1).

Action brought on 8 December 2022 — bet365 Group/EUIPO (bet365)

(Case T-764/22)

(2023/C 35/99)

Language of the case: English

Parties

Applicant: bet365 Group Ltd (Stoke-on-Trent, United Kingdom) (represented by: J. van Manen and E. van Gelderen, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union figurative mark containing the word elements 'bet365' — Application for registration No 18 479 799

Contested decision: Decision of the Forth Board of Appeal of EUIPO of 19 September 2022 in Case R 622/2022-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
 - Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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