

Action brought on 3 May 2017 — Arbuzov v Council**(Case T-258/17)**

(2017/C 213/47)

*Language of the case: Czech***Parties***Applicant:* Sergej Arbuzov (Kyiv, Ukraine) (represented by: M. Mleziva, lawyer)*Defendant:* Council of the European Union**Form of order sought**

- annul Council Decision (CFSP) 2017/381 of 3 March 2017 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, in so far as it relates to Sergej Arbuzov;
- order the Council of the European Union to bear its own costs and pay those incurred by Sergej Arbuzov.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the right to good administration

- The applicant bases his application inter alia on the fact that the Council of the European Union did not proceed with proper care when adopting Decision (CFSP) 2017/381 of 3 March 2017, since it did not, before adopting the contested decision, address the applicant's arguments and the evidence presented by him which supported his case, and proceeded essentially on the basis of a brief summary by the Ukraine Chief Public Prosecutor's office without requiring any additional information on the progress of the investigation in Ukraine.

2. Second plea in law, alleging breach of the applicant's right to property

- The applicant submits in this respect that the restrictions adopted with respect to him are disproportionate and unnecessary and breach the guarantees of international law protection of his right to property.

Action brought on 8 May 2017 — Ogrodnik v EUIPO — Aviaro Tropical (Tropical)**(Case T-276/17)**

(2017/C 213/48)

*Language in which the application was lodged: English***Parties***Applicant:* Tadeusz Ogrodnik (Chorzów, Poland) (represented by: A. von Mühlendahl, H. Hartwig, lawyers)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Aviaro Tropical, SA (Loures, Portugal)**Details of the proceedings before EUIPO***Proprietor of the trade mark at issue:* Applicant*Trade mark at issue:* EU figurative mark containing the word element 'Tropical' — EU trade mark No 3 435 773

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of EUIPO of 14 February 2017 in Case R 2125/2016-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- dismiss the appeal brought by Aviário Tropical, SA, against the decision of the Defendant's Cancellation Division of 15 July 2013 in Case 6029 C;
- order EUIPO and Aviário Tropical, SA, if it should intervene in these proceedings, to pay the costs.

Plea in law

- Infringement of article 53(1)(a) of Regulation No 207/2009 in conjunction with Article 8(1)(b) of Regulation No 207/2009.

Action brought on 10 may 2017 — Bank of New York Mellon v EUIPO — Nixen Partners (NEXEN)

(Case T-278/17)

(2017/C 213/49)

Language in which the application was lodged: English

Parties

Applicant: The Bank of New York Mellon Corp. (New York, New York, United States) (represented by: A. Klett and K. Schlüter, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Nixen Partners (Paris, France)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'NEXEN' — Application for registration No 13 374 152

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 23 February 2017 in Case R 1570/2016-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision of February 23, 2017 in case R 1570/2016-2 and reject the opposition;
- order EUIPO to bear the costs of the proceedings as well as of the proceeding in front of the Board of Appeal and at the Opposition Division, including all necessary expenses of the Applicant in these proceedings.

Pleas in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.
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