

2. Second plea in law, alleging that the Council misused its powers. The Council's actual purpose in implementing the Decision (and, therefore, the Regulation) was in essence to try to win favour with the so-called 'interim regime' of Ukraine so that Ukraine proceeded with closer ties with the EU (such closer ties having been rejected by the democratically elected President of Ukraine and his Government), and not the rationales stated on the face of the Decision and the Regulation.
3. Third plea in law, alleging that the Council failed to state reasons. The statement of reasons in the Decision and the Regulation for including the applicant (in addition to being wrong) are formulaic, inappropriate and deficient in required particularity.
4. Fourth plea in law, alleging that the applicant failed to fulfil the stated criteria for a person to be listed at the relevant time. Amongst other things, the Council failed to provide relevant information, but so far as he is aware, the applicant (a) had not at the time been identified by any judicial or other relevant body as being responsible for the embezzlement of Ukrainian State funds or their illegal transfer, and (b) was not at the time subject to investigation for involvement in crimes in connection with the embezzlement of Ukrainian State funds and their illegal transfer abroad.
5. Fifth plea in law, alleging that the Council made manifest errors of assessment in including the applicant in the contested measures. Amongst other things, the Council had no and, in any event, no 'concrete' evidence demonstrating that the allegations against the applicant were 'materially accurate', and wrongly relied on assertions by the illegitimate so-called 'interim regime' who were seeking to usurp power, and had a clear incentive to make such allegations for improper purposes.
6. Sixth plea in law, alleging that the applicant's defence rights have been breached and/or that he has been denied effective judicial protection. Amongst other things, the Council has failed to provide the applicant with a full statement of reasons, including the evidence against him, and failed to provide him with precise information and material said to justify the asset freeze, and he has been obliged to make this application in an unfairly short time period.
7. Seventh plea in law, alleging that the applicant's rights to property under Article 17(1) of the Charter of Fundamental Rights of the EU, have been breached in that, amongst other things, the restrictive measures are an unjustified and disproportionate restriction on those rights.

Action brought on 19 May 2014 — Comercializadora Eloro v OHIM — Zumex Group (zumex)

(Case T-354/14)

(2014/C 253/55)

Language in which the application was lodged: Spanish

Parties

Applicant: Comercializadora Eloro, SA (Ecatepec, Mexico) (represented by: J. L de Castro Hermida, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Zumex Group, SA (Moncada, Spain)

Form of order sought

The applicant claims that the General Court should:

- hold, on the basis of the documents filed in the administrative procedure and those submitted together with the present application, that the applicant has provided sufficient proof of use of its earlier mark 'JUMEX' for fruit juices in Class 32;
- refuse the registration of the mark applied for 'ZUMEX' for all goods in Class 32 on account of the opposing party, who is the applicant in the present proceedings, having proved use of the mark with priority, because of the likelihood of confusion on the part of consumers arising from the coexistence in the market of both marks, given the similarity of the words and their identity in application.

Pleas in law and main arguments

Applicant for a Community trade mark: Zumex Group, SA

Community trade mark concerned: Figurative mark with word element 'zumex' for goods in Class 32 — Community trade mark application No 6 845 598

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: Word mark 'JUMEX' for goods in Class 32

Decision of the Opposition Division: Opposition upheld

Decision of the Board of Appeal: Decision of the Opposition Division annulled and opposition rejected

Pleas in law:

- Proof of use of the earlier mark;
- Infringement of Article 8(1)(b) and (2) of Regulation No 207/2009.

Action brought on 23 May 2014 — CareAbout v OHIM — Florido Rodríguez (Kerashot)

(Case T-356/14)

(2014/C 253/56)

Language in which the application was lodged: English

Parties

Applicant: CareAbout GmbH (Düsseldorf, Germany) (represented by: P. Mes, C. Graf von der Groeben, G. Rother, J. Bühling, A. Verhauwen, J. Künzel, D. Jestaedt, M. Bergermann, J. Vogtmeier and A. Kramer, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: José Luis Florido Rodríguez (Sevilla, Spain)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 24 March 2014 in Case R 1569/2013-4 regarding 1., 2. and 4;
- order OHIM to bear the costs of the proceeding before the Court including the costs of the opposition proceeding

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark Kerashot for goods in Classes 1, 3 and 21 — Community trade mark application No 10 669 571

Proprietor of the mark or sign cited in the opposition proceedings: José Luis Florido Rodríguez

Mark or sign cited in opposition: The national figurative mark containing the word elements 'K KERASOL' for goods in Class 3