

**Action brought on 22 March 2017 — EKETA v Commission****(Case T-190/17)**

(2017/C 151/56)

*Language of the case: Greek***Parties**

*Applicant:* Ethniko Kentro Erevnas kai Technologikis Anaptyxis (EKETA) (Thessaloniki, Greece) (represented by: V. Christianos and S. Paliou, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- declare that the request made by the European Commission to EKETA to reimburse the amount of EUR 172 992,15 of the payment received by it for the CATER project, that request being made in the debit note 3241615289/29.11.2016, is unfounded with respect to the sum of EUR 112 737,15;
- declare that the sum of EUR 112 737,15 constitutes eligible costs and that EKETA is not obliged to repay that sum to the European Commission, and
- order the European Commission to pay the applicant's costs.

**Pleas in law and main arguments**

1. By this action, the Ethniko Kentro Erevnas kai Technologikis Anaptyxis (EKETA) challenges the requests made by the Commission by means of its debit note 3241615289/29.11.2016, in relation to participation in the CATER project. By means of that debit note, the Commission requested that EKETA reimburse part of the payment received by it for the CATER project, a sum of EUR 172 992,15. The request follows an on-the-spot audit which was carried out by the European Commission at the applicant's premises.
2. In that context, the applicant claims that the General Court of the European Union, under Article 272 TFEU, should declare that, out of the above amount stated in the debit note, the sum of EUR 112 737,15 constitutes eligible costs and that EKETA is not obliged to repay that sum to the Commission.
3. EKETA maintains that the above amount of EUR 112 737,15 constitutes eligible staff costs and indirect costs, which the Commission wrongly rejected as being ineligible. The eligibility of the applicant's costs is demonstrated by the evidence that it submitted to the European Commission at the on-the-spot audit and in subsequent correspondence and that it submits to the General Court.

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**Action brought on 27 March 2017 — CeramTec v EUIPO — C5 Medical Werks (Shade of pink)****(Case T-195/17)**

(2017/C 151/57)

*Language in which the application was lodged: English***Parties**

*Applicant:* CeramTec (Plochingen, Germany) (represented by: A. Renck and E. Nicolás Gómez, lawyers)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* C5 Medical Werks (Grand Junction, Colorado, United States)

**Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* Figurative colour mark in pink — EU trade mark No 10 214 195

*Procedure before EUIPO:* Proceedings for a declaration of invalidity

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 15 February 2017 in Case R 930/2016-4

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and the other party to the proceedings, should it intervene, to pay the costs.

### **Plea in law**

- Infringement of Articles 59 and 83 of Regulation No 207/2009.

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## **Action brought on 27 March 2017 — Naftogaz of Ukraine v Commission**

**(Case T-196/17)**

(2017/C 151/58)

*Language of the case: English*

### **Parties**

*Applicant:* NJSK Naftogaz of Ukraine (Kiev, Ukraine) (represented by: D. Mjaaland, A. Haga, P. Grzejszczak, and M. Krakowiak, lawyers)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- annul Commission Decision C(2016) 6950 of 28 October 2016 on review of the exemption of the Ostseepipeline-Anbindungsleitung from the requirements on third party access and tariff regulation granted under Directive 2003/55/EC; and
- order the European Commission to pay the costs of the proceedings.

### **Pleas in law and main arguments**

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

1. First plea in law, alleging that the 2016 Commission Decision is null and void for lack of competence

- Article 36(9) of Directive 2009/73/EC does not confer competence on the Commission to approve a decision of a regulatory authority amending an exemption granted pursuant to Article 36(1) which it has previously approved.
- Alternatively, if the Commission has competence to approve such a decision, it only has such competence in limited situations, such as where there has been a material change of circumstances since the date of its previous approval decision. If the position were otherwise the principle of legal certainty would be undermined. The Commission was not entitled to adopt the Decision in the circumstances of the present case.