

**Action brought on 22 March 2019 — Cognac Ferrand v EUIPO (Shape of braiding on a bottle)****(Case T-172/19)**

(2019/C 182/38)

*Language of the case: French***Parties***Applicant:* Cognac Ferrand (Paris, France) (represented by: D. Régnier, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)**Details of the proceedings before EUIPO***Trade mark at issue:* Application for a three-dimensional EU trade mark (Shape of braiding on a bottle) — Application for registration No 17 387 564*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 7 January 2019 in Case R 1640/2018-2**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision.

**Plea in law**

— Infringement of Article 7(1)(b) of Regulation (EU) No 2017/1001 of the European Parliament and of the Council.

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**Action brought on 20 March 2019 — Kalai v Council****(Case T-178/19)**

(2019/C 182/39)

*Language of the case: French***Parties***Applicant:* Nader Kalai (Halifax, Canada) (represented by: G. Karouni, lawyer)*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- Annul, in so far as those acts concern the applicant:
  - Council Implementing Decision (CFSP) 2019/87 of 21 January 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria;
  - Council Implementing Regulation (EU) 2019/85 of 21 January 2019 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria;
- Order the Council to pay EUR 2000 000.00 in damages to compensate all forms of loss suffered;
- Order the Council to bear its own costs and to pay those incurred by the applicant, of which supporting evidence can be shown during the proceedings under Article 134 of the Rules of Procedure of the General Court, according to which the unsuccessful party is to be ordered to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging breach of the rights of defence and to a fair trial. In that regard, the applicant submits, based on Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter') and Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the Court's case-law, that he should have been heard before the Council adopted the restrictive measures against him and that, accordingly, the applicant's rights of defence were not observed.
  2. Second plea in law, alleging breach of the obligation to state reasons flowing from the second paragraph of Article 296 TFEU. The applicant complains that the Council merely set out vague and general considerations and failed to state specific and concrete reasons for its view, in the exercise of its discretionary assessment, that the applicant must be subjected to the restrictive measures at issue. Thus no specific and objective factor has been raised against the applicant that could justify the measures at issue.
  3. Third plea in law, alleging a manifest error of assessment, in that the Council took as the basis for its reasoning in support of the restrictive measure elements that clearly lack any basis in fact. Therefore, the facts relied on are without any serious foundation.
  4. Fourth plea in law, alleging breach of the principle of proportionality in the infringement of fundamental rights. The applicant is of the view that the disputed measure should be invalidated since it is disproportionate in the light of the objective stated and it constitutes excessive interference in the freedom to conduct business and the right to property, enshrined, respectively, in Articles 16 and 17 of the Charter. The disproportion lies in the fact that the measure covers all influential economic activity without any other criterion.
  5. Fifth plea in law, alleging breach of the right to property. The applicant claims, based on Article 17 and 52 of the Charter, that a freezing measure undeniably entails a restriction of the exercise of the right to property and that, in the present case, the freezing of the funds stemming from the applicant's activities necessarily constitutes a disproportionate interference in relation to the objective pursued by the Council.
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