

Board of Appeal

PUBLIC VERSION

MINUTES

8th Board of Appeal meeting (restricted)

Thursday, 26 January 2017, 10.00 – 15.00

Brussels

The meeting of the Board of Appeal is restricted due to the appeal cases A-001-2017, A-002-2017, A-003-2017 and A-004-2017 dealt with.

Present:

Member	Walter Boltz (via teleconference, only for Agenda item no 1)
Member	Yvonne Fredriksson
Member	Jean-Yves Ollier
Member	Andris Piebalgs
Member	Mariusz Swora (via teleconference)
Member	Michael Thomadakis (via teleconference)
Alternate	Viorel Alicus (via teleconference, only for Agenda item no 1)
Alternate	Erik Rakhou (via teleconference, only for Agenda item no 1)
Registrar	Andras Szalay

1. The Board of Appeal approved the Agenda as follows:

Agenda items	BoA decision
1. Composition of the Board	yes
2. Consolidation of appeal cases	no
3. Designation of Rapporteur	no
4. Confidentiality requests	no
5. Decision (order) on suspension	yes
6. Any other business	no

2. Discussion of the items of the Agenda

Agenda item n° 1. – Composition of the Board

Pursuant to Article 1(5) of the Rules of Procedure, the composition of the Board must be communicated within 15 days from the submission of the notice of appeal.

Mr Walter Boltz announced, also by an e-mail sent on the same day, that – although he did not take part in the decision making which led to the present appeals – he resigned from the participation in the Board in deciding the four appeals in order to avoid any possible taint in the reputation of the BoA .

Due to the resignation, the Chairman will invite Mr Mariano Bacigalupo Saggese to replace Mr Boltz in accordance with AB Decision n° 22/2016.

Subsequently, the other members and alternates declared the lack of their personal interest related to the cases or any involvement in the decisions which led to the appeals.

The Board asked the Chairman to call Ms Nadia Horstmann to clarify her potential exposure to exclusion within the meaning of Article 2 of the Rules of Procedure.

Then, the Board of Appeal reached the following decision:

BoA Decision 1./26.01.2017

After the clarification of the pending potential conflicting interests, the Registrar circulates the draft decision on the composition of the Board amongst the members and alternates for possible objections. The composition shall be communicated to the parties by 6 February 2017 as the latest.

After the discussion about the first agenda item, the meeting followed with the participation of the members only.

Agenda item n° 2. – Consolidation of appeal cases

In accordance with Article 19(2) h) of the Rules of Procedure, appeals on similar or connected subjects may be merged before the closure of the written proceedings.

The Chairman informed the Board that for procedural economy the four cases, being similar in their subject, will be consolidated in one case.

Agenda item n° 3. – Designation of Rapporteur

In compliance with Article 5(1) of the Rules of Procedure, the Chairman shall designate a member as Rapporteur.

The Chairman informed the Board that he requested Mr Jean-Yves Ollier to act as the Rapporteur in the consolidated case, who accepted the invitation.

Agenda item n° 4. – Confidentiality requests

Subject to Article 14(2) of the Rules of Procedure, the Chairman shall evaluate the confidentiality requests.

The Registrar informed the Board about the confidentiality requests received from the parties. The Board of Appeal then stated their opinion.

[restricted part]

Agenda item n° 5. – Decision (order) on suspension

According to Article 26(1) of the Rules of Procedure, upon application of a party to the proceeding or of its own motion, the Board of Appeal may suspend the application of the contested decision.

The Board of Appeal discussed the requests for suspension in cases A-001,002 and 003-2017. **[restricted part]**

Then, the Board of Appeal reached the following decision:

BoA Decision 2./26.01.2017

[restricted part]

Agenda item n° 6. – Any other business

Board of Appeal

It is agreed that on **14 February 2017, from 9 am to 10.30 am CET** the Board will take a teleconference. The Registrar opens the conference room a few minutes before 9 am.

Then the meeting was adjourned.

For the Board of Appeal:

Andris Piebalgs

Chairman