

UPC_CFI_151/2024
Order
of the Court of First Instance of the Unified Patent Court
delivered on 14/08/2025

HEADNOTES:

1. A security provided by means of an R. 158 RoP order serves the purpose, as laid out in Art. 69.4 UPCA, to provide adequate security for the legal costs and other expenses incurred by the defendant, which the applicant may be liable to bear.
2. The Rules of Procedure do not provide any specific mechanism what happens to a security once the proceedings have come to an end. However, it is clear that at that point the beneficiary of a security deposit can request its release.
3. The parties can use the security provided under R. 158 RoP as means to settle a pending application to cost decision, R. 150 RoP, in analogy to R. 265 RoP.

KEYWORDS:

Release of security for costs, R. 158 RoP; Application for cost decision, R. 150 RoP; Mutual agreement of the parties, R. 265 RoP.

APPLICANT

Ballinno B.V.
(Claimant) - De IJvelandssloot 41 - 1713BA - Obdam - NL

Represented by Rien
Broekstra

DEFENDANTS

- 1) **Union des Associations Européennes de Football (UEFA)** Represented by Prof. Dr. Tilmann
(Defendant) - Route de Genève 46 - CH-1260 - Nyon - CH Müller-Stoy
- 2) **Kinexon GmbH** Represented by Prof. Dr. Tilmann
(Defendant) - Schellingstraße 35 - 80799 - Munich - DE Müller-Stoy

3) **Kinexon Sports & Media GmbH**
(Defendant) - Schellingstraße 35 - 80799 - Munich - DE

Represented by Prof. Dr. Tilmann
Müller-Stoy

PATENT AT ISSUE

Patent no.

Proprietor/s

EP1944067

Ballinno B.V.

DECIDING JUDGE

Judge-rapporteur

Dr. Stefan Schilling

SUBJECT-MATTER

Application for cost decision

SHORT SUMMARY OF FACTS

1. By means of a final order dated 3 June 2024 the Local Division dismissed the application for provisional measures dated 18 April 2024 and ordered the Applicant to pay the costs of the proceedings, including those incurred by filing the Protective Letter dated March 4th 2024. Before that, the Local Division had ordered the Applicant to provide security for the legal costs of the Defendants in the (total) amount of € 56.000. This amount was subsequently deposited with the Court by the Applicant Ballinno B.V.
2. With order dated 10 October 2024 the procedure for the application of a cost order, which was initiated by the Defendants, was stayed until the termination of the appeal proceedings in the main action (ACT_16267/2024) based on the joint confirmation of the parties as suggested by the judge-rapporteur, R. 295 lit. d) RoP.
3. The condition for the stay has been resolved in the meantime, as the appeal proceedings have been terminated by order of the CoA issued on 26 June 2025. The CoA rejected the request for a reversal of the CFI's cost order and ordered the Claimant (Applicant) to bear the legal costs and other expenses of the Kinexon companies and UEFA for the appeal proceedings.
4. The Defendants' representative informed the Court on 01 August 2025 that the parties have meanwhile entered into a settlement agreement. According to this agreement, the security for procedural costs in the amount of EUR 56.000,- provided by Ballinno B.V. should be transferred directly to Kinexon's bank account [data provided]. Once Kinexon has received the full payment according to the settlement agreement, the Defendants in this dispute will (officially) withdraw the request for cost reimbursement according to R. 265 (analogous).
5. The Applicant's representative confirmed on 7 August that the parties have entered into a settlement agreement. In light of this development, the Applicant on his part requests the Court to release the security for procedural costs in the amount of EUR 56,000,- which was previously provided by Ballinno B.V. and have it transferred directly to the bank account of Kinexon.

GROUND FOR THE ORDER

6. The security in the (total) amount of € 56.000 can be released to the Defendants.
7. The Rules of Procedure do not provide any specific mechanism what happens to a security once the proceedings have come to an end. Only in R. 352.2 RoP it is foreseen that an enforcement security can be released upon request of a party. R. 355.4 (b) RoP provides for the regarding decisions by default an enforcement security shall be released if no Application under R. 356 RoP (Application to set aside a decision by default) is made or if the Application fails.
8. However, it is clear that the security the Applicant provided by means of an R. 158 RoP order serves the purpose, as laid out in Art. 69.4 UPCA, to provide adequate security for the legal costs and other expenses incurred by the defendant, which the applicant may be liable to bear. Thus, when proceedings come to an end, the beneficiary of a security deposit – which is in case of R. 158 RoP the defendant – can request its release.
9. Additionally, the parties can use the security provided under R. 158 RoP as a means to partly or completely settle a pending application to cost decision, R. 150 RoP. When both parties mutually request the release of the security to the beneficiary as an inter partes settlement of the pending application for a costs order, this can be seen as a partial settlement of an issue of the proceedings in analogy to R. 265 RoP. Here, the parties made use of their general ability to settle any application by agreeing upon that the security for procedural costs provided by Ballinno B.V. should be transferred directly to the Defendants. The Defendants confirmed that the release of this amount shall cover their request for cost reimbursement according to R. 265 (analogous) in its entirety.
10. As it is evident from the parties' submissions that the release of the security serves the purpose of finally settle the Defendants' claim for reimbursement of legal costs, the procedure for the application for cost decision (App_44034/2024) can be ordered closed, as it regarded the costs for the proceedings in the first instance, only.
11. The competence of the judge-rapporteur follows R. 156.2 RoP.

ORDER

1. The security for procedural costs in the amount of EUR 56.000,- provided by Ballinno B.V. is to be released to the Defendants.
2. The amount stated in item 1. is to be transferred to Kinexon's following bank account: Kinexon Sports GmbH, IBAN: [REDACTED]
3. The procedure for the application of a cost decision (App_44034/2024) is declared closed.

INFORMATION TO THE REGISTRY


The amount of EUR 56.000,- provided by Ballinno B.V. is to be transferred to Kinexon's following bank account: Kinexon Sports GmbH, IBAN: [REDACTED]

ORDER DETAILS

Order no. ORD_34872/2025 in ACTION NUMBER: 16267/2024
UPC number: UPC_CFI_151/2024
Related proceeding no. Application No.: App_44034/2024

Application Type: Application for cost order

Stefan
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Judge-Rapporteur Dr. Schilling