

- grant the applicant a period of 12 months to submit figures for its claims;
- order the Council and the Commission to pay the costs.

*Pleas in law and main arguments*

The applicant is a smallholder in French Polynesia, where he suffered damage as a result of the non-compliance in that territory with Council Decisions 86/283/EEC<sup>(1)</sup> and 91/482/EEC<sup>(2)</sup> on the association of the PTOMs. The applicant claims that the Commission has not fulfilled its obligations in that it has not monitored sufficiently closely the local authorities in French Polynesia and the SOCREDO development bank with regard to compliance with Community law and has not required the application and publication of the abovementioned Council decisions. The Commission has thus infringed the principle of good administration and the principle of good faith. Moreover, the applicant complains that he has been discriminated against by comparison with other smallholders in French Polynesia.

(1) Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the European Economic Community (OJ 1986 L 175, p. 1).

(2) 91/482/EEC: Council Decision of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community (OJ 1991 L 263, p. 1).

**Action brought on 24 December 2001 by MFE Marienfelde GmbH, Unternehmen für Ernährung, against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case T-334/01)**

(2002/C 68/30)

*(Language of the case: to be determined pursuant to Article 131(2) of the Rules of Procedure — Language in which the application has been drafted: German)*

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 24 December 2001 by MFE Marienfelde GmbH, Unternehmen für Ernährung, of Hamburg (Germany), represented by Sabine Rojahn and Stefan Freytag, lawyers. A further party to the proceedings before the Board of Appeal was Chassot AG of Belp (Switzerland).

The applicant claims that the Court should:

- annul the decision adopted on 26 September 2001 by the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and opposition decision No 601/2000 of 28 March 2000;
- order the defendant to pay all the costs.

*Pleas in law and main arguments*

Applicant for the Community trade mark:	Chassot AG
The Community trade mark applied for:	the verbal mark 'HIPOVITON' for goods in Class 31 (feedingstuffs)
Proprietor of the trade-mark right opposed in the opposition proceedings:	the applicant
Trade-mark right opposed:	the German verbal mark 'HIPPOVIT' for goods in Class 31 (feedingstuffs)
Decision of the Opposition Division:	rejection of the opposition
Decision of the Board of Appeal:	rejection of the applicant's appeal
Grounds of claim:	<ul style="list-style-type: none"> <li>— infringement of Articles 8 and 15 of Regulation (EC) No 40/94<sup>(1)</sup>;</li> <li>— misinterpretation of Article 15 of the regulation;</li> <li>— violation of the right to a fair hearing;</li> <li>— infringement of the first and second sentences of Article 74(1) of the regulation;</li> <li>— infringement of Article 73 of the regulation.</li> </ul>

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).