

*Pleas in law and main arguments*

The applicant received a grant from the Commission in 1996 within the framework of a project to create a joint venture with a Polish undertaking. The request for a grant was based on application of a regional development plan entitled 'Joint Venture PHARE TACIS Program'. Following an investigation carried out in 2002 at the applicant's premises and an exchange of correspondence between the applicant and the Commission, the latter, by a missive of 8 July 2003, instructed the bank acting as financial intermediary for the development plan to effect full recovery of the funds paid to the applicant. It is this notification which constitutes the decision under challenge by the applicant.

In support of its action, the applicant first invokes an alleged breach of the provisions of Regulation No 1<sup>(1)</sup> inasmuch as the contested decision was drafted in English and not in French, even though it was addressed to the applicant, which is a French company. The applicant also pleads an alleged failure to comply with the four-year limitation period laid down in Article 3 of Council Regulation No 2988/95<sup>(2)</sup>. The applicant further submits that the contested decision, which was not signed by the competent Commissioner but by a Head of Unit and an administrator, infringes the principle of collegiate responsibility and originates from an authority lacking competence.

The applicant contends further that the contested decision is vitiated by a substantive inaccuracy as to the facts, lacks any legal basis, fails to satisfy the obligation to state reasons, and infringes the principles of proportionality and *audi alteram partem* and the right to due process.

<sup>(1)</sup> Regulation No 1 of the Council determining the languages to be used by the European Economic Community (OJ English Special Edition 1952-1958, p. 59).

<sup>(2)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312 of 23.12.1995, pp. 1 to 4).

**Action brought on 15 September 2003 by Citicorp against the Office for Harmonisation in the Internal Market**

**(Case T-320/03)**

(2003/C 275/84)

(Language of the case: English)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 15 September 2003 by Citicorp, New York (USA), represented by Dr V. von Bomhard, Dr A. Pohlmann and Dr. A. Renck, lawyers.

The applicant claims that the Court should:

- annul the Decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 25 June 2003 (Case R 85/2002-3);
- order that the costs of the proceedings be borne by the Office.

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Trade mark concerned: 'LIVE RICHLY' (word) — Application No. 2112647.

Products or services: 'Financial and monetary services and real estate affairs; in particular: banking; credit card; commercial and consumer lending and financing; real estate and mortgage brokerage; trust, estate and fiduciary management, planning and consulting; investment and investment advisory and consulting; securities brokerage and trading services facilitating secure financial transactions, insurance services; in particular, underwriting and sales of property, casualty and life insurance policies and annuity contracts' (Class 36)

Challenged Decision before the Board of Appeal: Refusal of registration by the examiner

Pleas in law: Violation of Articles 7(1)(b) and 73, first and second sentences, of Regulation (EC) No 40/94.

**Action brought on 8 September 2003 by Juckem GmbH and Others against European Parliament and Council of the European Union**

**(Case T-321/03)**

(2003/C 275/85)

(Language of the case: French)

An action against the European Parliament and the Council of the European Union was brought before the Court of First Instance on 8 September 2003 by Juckem GmbH and 244 other companies, represented by D. Waalbroeck and N. Rampal, avocats.