

— the memorandum of 14 July 2004, n. JE/OA D (2004) 5446, concerning DOCUP OB 2 — Friuli-Venezia Giulia Region 2000-2006 (No. CCI 2000 IT 16 2 DO 013) — Certification of the intermediate statement of expenses and claim for payment, received on 15 July 2004, by which the European Commission — Directorate General Regional Policy — Regional intervention in France, Greece, Italy, transmitted the following decision: 'the Commission therefore requests the submission of the intermediate statement of expenses and the claim for payment in question together with the following information in respect of every measure providing for an aid scheme:

- total amount of advances paid
- amount of the advances paid which are eligible for structural fund contribution as previously stated.

In the absence of such information, the Commission will not be able to make the payment requested in respect of the measures relating to the aid scheme of the DocUP Friuli-Venezia Giulia 2000-2006 Objective 2' together with all other connected and prior acts;

— order the Commission of the European Communities to pay the costs.

Pleas in law and main arguments:

This action has been brought against the memoranda of the European Commission of 17 June 2004 No D (2004) 4074 (DOCUP Regione Lombardia) and of 14 July 2004 No JE/OA D (2004) 5446 (DOCUP Friuli Venezia Giulia), both of which seek to subject the procedure for the payment of advances in the context of aid schemes to conditions which are not required by the legislation in force with the purpose of limiting improperly the expenditure which is eligible for the use of the structural funds concerned.

In support of its claims, the Italian Republic alleges:

— breach of essential procedural requirements inasmuch as the legal basis is incorrect, there is no statement of reasons and the decision-making procedure has not been complied with. The applicant points out in that regard that the contested acts make no mention of the provision of law enabling them to be adopted.

Further to the breach of the obligation to provide reasons, the applicant also claims that the contested memoranda were not adopted in accordance with the correct procedure provided by the Commission's rules of procedure.

— infringement of Article 32 of the basic regulation (Council Regulation No 1260/99) and of Commission Regulation No 448/04 which make subject payment of advances only to evidence that the State which is the final beneficiary has paid the relevant monies to the final recipients of the investment.

— infringement of the rules governing eligibility of the expenditure laid down in the basic regulation. According to the

applicant, the relevant regulation in the present case precludes the approach adopted by the Commission, according to which the rules on eligibility of expenditure must be understood to mean that they subject eligibility of expenditure to evidence that the financing has actually been used to carry out a project which fulfils the purpose for which the aid was granted.

- infringement of the rules governing financial control (Article 38 of the basic regulation and implementing provisions) which do not provide for the requirements alleged by the Commission.
- breach of the principle of proportionality, in view of the fact that the Commission requires evidence beyond that which is required and necessary.
- infringement of Regulation No 448/04 by breach of the principles of equality and legal certainty and contradiction in the contested memorandum.
- infringement of Article 9 of Commission Regulation (EC) No 438/2001 for failure to observe the accounting rules provided for therein.
- breach of the principle of simplified procedures.

Action brought on 17 August 2004 by Sadas S.A. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-346/04)

(2004/C 262/103)

(Language in which the application was submitted: French)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 17 August 2004 by Sadas S.A., established in Tourcoing (France), represented by A. Bertrand, lawyer.

L.T.J. Diffusion was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- alter in its entirety the operative part of the decision of the First Board of Appeal in Case R 393/2003-1;
- annul the decision contested in that case by which the examiner found that there is a likelihood of confusion in the minds of the public between the mark 'ARTHUR' and the mark in respect of which registration is sought 'ARTHUR ET FELICIE';
- order L.T.J. Diffusion to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:	The applicant.
Community trade mark sought:	Three-dimensional mark 'ARTHUR ET FELICIE' — Application No 0373787.
Goods or services:	Goods in Classes 16, 24 and 25.
Proprietor of mark or sign cited in opposition:	L.T.J. Diffusion.
Mark or sign cited in opposition:	National trade mark 'ARTHUR' for Class 25 (clothing).
Decision of the Opposition Division:	Rejection of the opposition.
Decision of the Board of Appeal:	Annulment of the decision of the Opposition Division.
Pleas in law:	Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94.

Action brought on 17 August 2004 by Pascal Millot against the Commission of the European Communities**(Case T-347/04)**

(2004/C 262/104)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 17 August 2004 by Pascal Millot, resident in Brussels, represented by Sébastien Orlandi, Albert Coolen, Jean-Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the Commission's decision of 11 September 2003 definitively setting the applicant's grading at the first step in Grade A6;
- order the Commission to pay the costs.

Pleas in law and main arguments

In support of his action, the applicant argues that the contested decision infringes the second paragraph of Article 32 of the Staff Regulations and the principle of equal treatment and non-

discrimination, since it was taken without considering the option of allowing him additional seniority in his grade on account of his training and professional experience prior to his recruitment.

Action brought on 20 August 2004 by Société Internationale de Diffusion et d'Édition against the Commission of the European Communities**(Case T-348/04)**

(2004/C 262/105)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 August 2004 by Société Internationale de Diffusion et d'Édition (SIDE), established in Vitry-sur-Seine (France), represented by Nicole Coutrelis and Valérie Giacobbo, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul Article 1, last sentence, of the Commission decision of 20 April 2004 concerning the implementation by France of aid in favour of the Coopérative d'Exportation du livre français (CELFF);
- in the alternative, annul Article 1, last sentence, of the decision insofar as it declares the aid compatible before 1994 or, alternatively, 1997 or 1999;
- in the further alternative, annul Article 1, last sentence, of the decision insofar as it declares the aid compatible before 1 November 1993;
- order the Commission to pay the costs.

Pleas in law and main arguments:

The applicant is an export agency for French-language books. In 1992, it lodged a complaint with the Commission relating to aid paid since 1977 by the French Government to the Coopérative d'Exportation du Livre Français (CELFF). The Commission adopted decisions pursuant to that complaint. Those decisions were annulled by judgments of 18 September 1995 in Case T-49/93 and of 28 February 2002 in Case T-155/98. Further to the second judgment, the Commission adopted a third decision which is challenged in this action.