The pleas and arguments invoked in the present case are largely similar to those raised in case T-45/02, DOW AgroSciences and DOW AgroSciences -v- European Parliament and Council of the European Union (not yet published in the OJ).

(1) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1)

Action brought on 19 March 2002 by Stephan-Harald Voigt against the European Central Bank

(Case T-78/02)

(2002/C 144/102)

(Language of the case: German)

An action against the European Central Bank was brought before the Court of First Instance of the European Communities on 19 March 2002 by Stephan-Harald Voigt, residing in Langenselbold (Germany), represented by N. Pflüger, lawyer.

The applicant claims that the Court should:

— annul the written reprimand issued to the applicant by the defendant pursuant to Article 43(i) of the Conditions of Employment by letter of 1 March 2002;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of his application, the applicant claims that the written reprimand is invalid on the ground that general procedural principles were not respected. The reprimand is based on incorrect assumptions and the applicant was, *inter alia*, not granted an adequate hearing in the procedure. Moreover, the defendant's conduct infringes European data-protection rules.

The applicant also disputes that the Vice-President of the defendant had been granted the general authority to decide on written reprimands within the meaning of Article 43(i) of the Conditions of Employment by a valid decision of the Executive Board.

Action brought on 23 March 2002 by Pedro Diaz S.A. against the Office for Harmonisation in the Internal Market

(Case T-85/02)

(2002/C 144/103)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 23 March 2002 by Pedro Diaz S.A. of Carretera de Cartagena-La Palma, Km 2,4, Cartagena (Spain), represented by Patricia Koch Moreno.

The applicant claims that the Court should:

— annul the decision of 16 January 2002 of the Third Board of Appeal rejecting application number 199 265 for registration of a Community trade mark CASTILLO to describe 'cheeses' falling within Class 29;

— declare that application number 199 265 for registration of a Community trade mark CASTILLO to describe 'cheeses' falling within Class 29 should be allowed;

— order the defendant and, where appropriate, the intervener, to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark	Pedro Diaz S.A.
Community trade mark applied for Word mark:	CASTILLO — application no 199 265 for products falling within Classes 29 and 30
Proprietor of the trade mark or sign invoked in the opposition procedure:	Granja Castello S.A.
Trade mark or sign being opposed:	Word mark with graphic elements 'EL CASTILLO' registered for products in Class 29 and word mark with graphic elements 'EL CASTILLO NADO 1' for products in Class 30

Decision of the opposition division:	Refusal of registration in respect of certain products
Decision of the Board of Appeal:	Partial annulment of the decision of the Opposition Division and refusal of registration in respect of an additional product ('cheeses')
Pleas in law:	— Infringement of Article 8(1)(b) of Regulation No 40/94 — Incorrect interpretation of the concept of risk of confusion

Action brought on 26 March 2002 by Territorio Histórico de Alava — Diputación Foral de Alava against Commission of the European Communities

(Case T-86/02)

(2002/C 144/104)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 26 March 2002 by the Territorio Histórico de Alava — Diputación Foral de Alava, Alava (Spain), represented by Ignacio Saenz-Cortabarria and Marta Morales Isasi.

The applicants claim that the Court should:

— annul the Commission Decision of 20 December 2001 on the system of aid implemented by Spain in 1993 in favour of a number of newly-created undertakings in Alava;

— in the alternative, annul Article 3 of that decision;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicants contest Commission Decision C(2001) 4475 final of 20 December 2001 declaring State aid incompatible with the common market the exemption from company tax arising from Article 14 of Norma Foral (Regional Law) No 18/1993 of 5 July 1993 on urgent fiscal provisions to promote investment and economic activity (Boletín Oficial del Territorio Histórico de Alava No 79 of 16 July 1993), which provides for exemption from company tax for undertakings created between the entry into force of that Law and 31 December 1994, provided that they invest more than PTA 80 million (EUR 480 810), create more than 10 new jobs and have disbursed capital amounting to more than PTA 20 million (EUR 120 202).

The applicants put forward essentially 5 pleas in law:

a. infringement of the first paragraph of Article 87 EC inasmuch as the Commission committed a manifest error of assessment by considering that the fiscal measure at issue is *prima facie* State aid within the meaning of the aforementioned article. In the applicant's view, the present case does not involve selective advantage, which is typical of State aid within the meaning of that provision, since it is a measure which is established on the basis of objective criteria and affects all economic operators (both natural and legal persons) in the same way.

b. in the alternative, with regard to the first plea in law, misinterpretation by the Commission of the concept of 'State aid'. The applicants state that, should the Court take the view that the measure at issue is indeed State aid, it would in any event be as an existing aid scheme either within the meaning of Article 1(b)(v) of Regulation (EC) No 659/1999 since, when it was implemented, the measure was not 'aid', or within the meaning of 1(b)(ii) as aid which, at the time, was impliedly authorised by the Commission.

c. in the further alternative to the first plea in law, failure to observe the procedures laid down by law. According to Article 88(1) EC and Regulation (EC) No 659/1999, the proper procedure for the review of systems of existing aid is as provided for in Articles 17 to 19 of that regulation, not that followed by the Commission in the present case, which is the procedure to be applied to unlawful aid.

d. in the alternative with regard to the first three pleas in law, abuse by the Commission of its power to authorise aid under Article 87(3)(c) EC by considering the disputed fiscal measure to be operating aid and to declare, as a consequence, that it is aid incompatible with the common market. The Commission improperly equates what is nothing more than a means of assessing the element of aid with the genuine concept of aid to investment or for job creation. The fact that the amount of the aid as a