

## COURT OF FIRST INSTANCE

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 17 October 2002

in Case T-98/00: Linde AG v Commission of the European Communities <sup>(1)</sup>*(State aid — Definition — Advantage — Normal commercial transaction — Rational operator in a market economy)*

(2002/C 323/46)

*(Language of the case: German)*

In Case T-98/00, Linde AG, established in Wiesbaden (Germany), represented by H.-J. Rabe and G. Berrisch, lawyers, supported by Federal Republic of Germany (Agents: W.-D. Plessing, J. Sedemund and T. Lübbig), v Commission of the European Communities (Agents: D. Triantafyllou and K.-D. Borchardt): Application for partial annulment of Commission Decision 2000/524/EC of 18 January 2000 on the State aid granted by Germany to Linde AG (OJ 2000 L 211, p. 7), the Court of First Instance (Fifth Chamber, Extended Composition), composed of: J.D. Cooke, President, R. García-Valdecasas, P. Lindh, N.J. Forwood and H. Legal, Judges; D. Christensen, Administrator, for the Registrar, has given a judgment on 17 October 2002, in which it:

1. Annuls Articles 2 and 3 of Commission Decision 2000/524/EC of 18 January 2000 on the State aid granted by Germany to Linde AG;
2. Orders the Commission to bear its own costs and pay those of the applicant;
3. Orders the Federal Republic of Germany to bear its own costs.

<sup>(1)</sup> OJ C 176 of 24.6.2000.

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 9 October 2002

in Case T-173/00: KWS Saat AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) <sup>(1)</sup>*(Community trade mark — Regulation (EC) No 40/94 — Colour (shade of orange) — Absolute ground for refusal — Distinctive character — Statement of reasons)*

(2002/C 323/47)

*(Language of the case: German)*

In Case T-173/00, KWS Saat AG, established in Einbeck (Germany), represented by G. Würtenberger, lawyer, with an address for service in Luxembourg, v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: A. von Mühlendahl, E. Joly, J. Miranda de Sousa and A. Di Carlo): Action brought against the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 April 2000 (Case R 282/1999-2), the Court of First Instance (Second Chamber), composed of: R.M. Moura Ramos, President, J. Pirrung and A.W.H. Meij, Judges; B. Pastor, Principal Administrator, for the Registrar, has given a judgment on 9 October 2002, in which it:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 April 2000 (Case R 282/1999-2) in regard to services in Class 42;
2. Dismisses the remainder of the action;
3. Orders the applicant to bear its own costs and two thirds of the costs incurred by the defendant. The defendant shall bear one third of its costs.

<sup>(1)</sup> OJ C 259 of 9.9.2000.