

Action brought on 20 February 2003 by Regione Siciliana against the Commission of the European Communities

(Case T-60/03)

(2003/C 101/86)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 February 2003 by Regione Siciliana, represented by Giacomo Aiello (Avvocato dello Stato).

The applicant claims that the Court should:

- annul the Commission's decision of 11 December 2002 (C(2002)4905) concerning the cancellation of the contribution of the European Regional Development Fund (ERDF) towards an infrastructure investment of no less than ECU 15 million in Italy (region: Sicily) and the recovery of the advance paid by the Commission as part of that contribution, and
- order the Commission to pay the costs.

Pleas in law and main arguments

The present action is directed against the cancellation of the European Regional Development Fund (ERDF) contribution of LIT 94 940 620 056 towards the creation of a reservoir by means of damming the Gibbesi River in order to ensure a reliable water supply to the industrial centre proposed for the Commune of Licata and to improve irrigation to an area of approximately one thousand hectares.

In support of its application, the applicant argues infringement of Article 24 of Regulation (EEC) No 4253/88, as amended by Council Regulation (EEC) No 2082/93 of 20 July 1993 amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽¹⁾ in that the Commission's decision to cancel the contribution was based on the assumption that there had been

a change in the intended use of the construction, that reason not being included in Article 24 and inapplicable in any event on the facts of the present case.

- The applicant also alleges that the Commission abused its powers by distorting the facts in that the contested decision cancelled the Community contribution without a proper legal basis and in the absence of factual circumstances such as might warrant cancellation.
- The applicant also alleges that the Commission gave an insufficient statement of reasons on a decisive point in as much as it found irregularities and problems in the financial management of the project which, however, have no relevance to the cancellation of the Community contribution.

⁽¹⁾ OJ L 193 of 31.7.1993, p. 20.

Action brought on 18 February 2003 by Irwin Industrial Tool Company against the Office for Harmonization in the Internal Market

(Case T-61/03)

(2003/C 101/87)

(Language of the case: English)

An action against the Office for Harmonization in the Internal Market was brought before the Court of First Instance of the European Communities on 18 February 2003 by Irwin Industrial Tool Company, Hoffman Estates, USA, represented by Mr Graham Farrington, Solicitor.

The applicant claims that the Court should:

- annul the Decision of the Defendant's Third Board of Appeal of 20 November 2002; and
- order the Defendant to remit the application to its Examination Division for re-examination of Community Trade Mark number 1760867 and/or order the Defendant to remit the application to its Board of Appeal to consider the appeal under the provisions of Article 7(1)(b) of Community Trade Mark Regulation EC No 40/94 which it declined to do on the original appeal.