

## Deal Report

### **Success for CDA in state aid dispute before European Court of First Instance**

On 19 October 2005, the European Court of First Instance decided in favour of the high-tech company based in Thuringia, CDA Datenträger Albrechts GmbH, in a dispute over the return of state aid amounting to more than €200m. Following a four-year dispute between the European Commission and CDA, this decision led to the Commission directive issued to the Federal Republic of Germany being revoked.

Back in 2000, the Commission had established that state aid granted to the Pilz/Robotron Group in the 1990s for a CD plant and restructuring measures had been misused. The return demand for this state aid was also extended to CDA which had, at a later stage, acquired production facilities of the Pilz Group.

These proceedings have been viewed with great interest in professional circles, given that the Commission had resolved for the first time that state aid was to be reclaimed not only from the actual recipient of such aid but also in an unlimited amount from the acquirers of individual assets of state aid recipients, even though the acquirers had paid an appropriate market price for the assets. Following a complaint filed by CDA, the European Court rejected an extension of the return demand to CDA and declared the decision null and void.

Within the framework of these proceedings, Hengeler Mueller provided comprehensive advice to CDA Datenträger Albrechts and its shareholder, Thüringer Industriebeteiligungsgesellschaft mbH, as well as representation before the European Court. Advice was provided by partner Thomas Schmidt-Kötters (Public Law/State Aid) and associate Dirk Uwer.

Contact: Keith D. Bain  
- PR Manager -  
Hengeler Mueller  
Partnerschaft von Rechtsanwälten  
Bockenheimer Landstraße 51  
60325 Frankfurt  
Tel.: ++ 49 69 17095-207  
Fax: ++ 49 69 725773  
[keith.bain@hengeler.com](mailto:keith.bain@hengeler.com)

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