

should not suffer injury merely because they had relied on **information received from the EPO** which later proved to be mistaken or likely to have been misunderstood.

In T 881/98 the appellant's professional representative had written to the Registry of the boards of appeal requesting a two-month extension to a time limit, without giving reasons or indicating that the time limit in question was for submitting the statement of grounds of appeal. He added that if not notified to the contrary he would assume his request was allowed. The board refused the request for re-establishment. The Registry had not fallen short of legitimate expectations, as in this case (in contrast to T 460/95) the appellant had not been misled to his detriment by wrong information from the Registry but had himself made the mistake of thinking that the time limit could be extended.

In T 733/98 the board informed the appellants that the statement setting out the grounds of appeal did not comply with Art. 108, third sentence, EPC 1973. The appellants requested re-establishment in respect of the time limit for filing the statement of grounds, arguing that they had relied on Legal Advice No. 15/84 of the EPO, which had still been in force when they had received the communication under R. 51(4) EPC 1973. The board held that the appellants had misinterpreted the legal advice in question, having failed to realise that the procedure for handling main and auxiliary requests which it described no longer applied once amended R. 51 EPC 1973 entered into force. The board decided that the requirement of all due care required by the circumstances was not met in this case.

In T 744/11 the statement setting out the grounds of appeal was received in electronic form three minutes after expiry of the four-month time limit. The representative argued that his office was based in Cambridge and that, since the clocks in the United Kingdom were one hour behind Central European Time (CET), he had sent the statement of grounds within the time limit. The board could not accept this argument for the simple reason that the relevant time for the purpose of the law was the time at the EPO (i.e. the time at Munich or The Hague) and not the time in the United Kingdom. However, the board considered the appellant's request allowable, in particular because the appellant had shown that the non-observance of the time limit was not caused by lack of due care but rather by a justifiable human error on the part of the representative.

e) Starting work on a case close to the expiry of the time limit

In J 16/92 the Legal Board made it clear that anyone getting himself into a situation where he could not be sure of being able to complete the omitted act ran the risk of his request for further processing being ruled inadmissible for failure to complete the omitted act in good time. In the case in hand the representative had not started working on the file until four days before expiry of the time limit for further processing and hence had discovered too late that he was unable to find the first communication to which he was to respond. See also J 7/12 (where a payment order was transmitted late in the afternoon of the last day of the grace period for paying a renewal fee plus additional fee).