

Finally, the applicant alleges breach of the principle of non-discrimination in that the contested decisions deprived the union of which the applicant is the secretary general of all manner of human and material resources without taking account of its representativeness.

compensation for the material damage he allegedly suffered in the period between 1 July and 31 December 2001 and has made the present application. In support of his arguments, he alleges infringement of the abovementioned article of the Staff Regulations.

Action brought on 31 January 2003 by José Pedro Pessoa e Costa against Commission of the European Communities

(Case T-36/03)

(2003/C 101/69)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 31 January 2003 by José Pedro Pessoa e Costa, residing in Brussels, represented by Albert Coolen, Jean-Noël Louis et Étienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that the Commission committed an administrative fault by not reinstating the applicant to the first vacancy at Grade A 5 commensurate with his abilities;
- order the Commission to reconstitute his career and, in particular, to pay him the remuneration to which he is entitled in respect of the period from 1 August to 31 December 2001 together with default interest calculated at the rate of 1.5 % per annum;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, an official working for the defendant, on leave on personal grounds until 30 June 2001, requested his reinstatement, in accordance with Article 40(4)(d) of the Staff Regulations of officials of the European Communities. On 30 May 2002, the applicant lodged a complaint claiming that the defendant had failed to reinstate him to the first vacancy corresponding to his grade and abilities. The applicant claims that that complaint was partially rejected so far as concerns

Action brought on 7 February 2003 by DaimlerChrysler AG against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-39/03)

(2003/C 101/70)

(Language of the case: to be determined pursuant to Article 131(2) of the Rules of Procedure — Language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 7 February 2003 by DaimlerChrysler AG, Stuttgart, Germany, represented by M. Trimborn, lawyer. AXON Leasing GmbH, Grasbrunn, Germany, was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of 4 November 2002 in appeal No R 329/2001-4 and dismiss the appeal;
- order the defendant Office to pay the costs.

Pleas in law and main arguments

Applicant for Community trade mark:

Community trade mark sought:

Proprietor of mark or sign cited in the opposition proceedings:

The applicant

The word mark 'AXOR' for goods and services in Classes 12 and 37 (automobiles and parts therefor (included in Class 12) and motor vehicle maintenance and repair) — application No 1111061

AXON Leasing GmbH