

In this regard, she points out that the letter by which she was notified of the contested decision bears the date of 20 January 2003, that is to say three days before the date on which the oral test in question actually took place. That error was later corrected.

In support of her claims, the applicant pleads:

- breach of the notice of the competition in question and a defect in the procedure, in that the selection board could not evaluate her on her oral abilities until it had interviewed her;
- misuse of powers given that the selection board was biased;
- breach of the principle of equal treatment; and
- breach of the requirement to state grounds for a decision.

(<sup>1</sup>) [2002] ECR-SC I-A-37, II-161.

**Action brought on 11 December 2003 by Manuel Simões dos Santos against the Office for Harmonisation in the Internal Market**

**(Case T-409/03)**

(2004/C 59/38)

*(Language of the case: French)*

An action against the Office for Harmonisation in the Internal Market (OHIM) was brought before the Court of First Instance of the European Communities on 11 December 2003 by Manuel Simões dos Santos, resident in Alicante (Spain), represented by Antonio Creus Carreras, lawyer.

The applicant claims that the Court should:

- annul the implied decision of the Appointing Authority rejecting the complaint made by the applicant and the decision of 14 February 2003 fixing his initial number of merit points for the 2002 promotion year in so far as it limits his period of service in the European Parliament;
- order the defendant to pay all the costs of the case.

*Pleas in law and main arguments*

The applicant was an official of the European Parliament when he was transferred to OHIM on 1st October 1998. By the contested decision, OHIM informed the applicant of his number of merit points for the 2002 promotion year. When calculating those points, OHIM limited the applicant's length of service in the grade to five years and as a result did not take account of the period from 1 January 1991 to 31 October 1993.

In support of his claim for annulment, the applicant submits, firstly, that there was a breach of Article 1 of Decision ADM 02-39 rev of OHIM concerning the career and promotion of officials and temporary staff, and of the principles of legality, legal certainty and equal treatment. He submits, furthermore, that there was a breach of the Staff Regulations in so far as the principles applicable to transfers between institutions were not adhered to and that the applicant's legitimate expectations when he accepted the transfer were not upheld. The applicant submits, finally, that there was a breach of the requirement to state the reasons for the disputed decision and of the principle of proportionality.

**Action brought on 18 December 2003 by Hoechst AG against the Commission of the European Communities**

**(Case T-410/03)**

(2004/C 59/39)

*(Language of the case: German)*

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 18 December 2003 by Hoechst AG, Frankfurt am Main (Germany), represented by M. Klusmann and V. Turner, lawyers.

The applicant claims that the Court should:

- annul the contested decision in so far as it concerns the applicant;
- in the alternative, make an appropriate reduction in the amount of the fine imposed on the applicant in the contested decision;
- order the defendant to pay the costs.