Action brought on 6 August 2004 by F against the Commission of the European Communities

(Case T-324/04)

(2004/C 300/83)

(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 6 August 2004 by F, residing in Rhode St Genèse (Belgium), represented by Eric Boigelot, lawyer.

The applicant claims that the Court should:

— annul the decision of 8 January 2004 of the PMO2 (Office for the Administration and Payment of Individual Entitlements - Wages and salaries, expenses for business travel, experts) laying down detailed arrangements for an initial recovery of undue payments received by the applicant;

— annul the decision of 18 November 2003 of the PMO1 (Office for the Administration and Payment of Individual Entitlements – Administration of individual pecuniary entitlements) cancelling the expatriation allowance previously paid to the applicant;

— annul the decision of the PMO2 of 9 February laying down detailed arrangements for the recovery of undue payments received by the applicant;

— annul the decision of the appointing authority of 2 July 2004 served on the applicant on 7 July 2004 replying to the complaint lodged by the applicant;

— annul any measure resulting from or relating to those decisions taken after the lodging of this action;

— order the reimbursement of all sums which have been or will be deducted from the salary of the applicant from February 2004 onwards with interest at 5.25 % from the date of the lodging of the complaint;

— grant the applicant compensation for non-material loss assessed ex aequo et bono at EUR 3 000 by way of damages, without prejudice to any increase during the proceedings;

— order the defendant to pay the costs in any event, including the fees of counsel consulted by the applicant in order to bring the action.

Pleas in law and main arguments:

The applicant took up his duties with the Commission on 16 September 1987. Having initially worked in Luxembourg, he has worked in Brussels since 1 April 1989. The applicant received the expatriation allowance both in Luxembourg and in Brussels.

By the contested decisions the Commission cancelled that allowance with effect from the applicant's transfer to Brussels, having become aware that the applicant had lived and worked in Brussels during the reference period, that is to say, from 16 March 1982 to 15 March 1987. The Commission also laid down the arrangements for the repayment of the undue payments received by the applicant.

In support of his application the applicant pleads the infringement of Articles 69 and 85 of the Staff Regulations, of Article 4 of Annex VII to the Staff Regulations and of the principles of good administration, the protection of legitimate expectations and equal treatment. He also pleads breach of the duty to have regard for the welfare of officials and manifest errors of assessment. On that point, the applicant first points out that, during the reference period, he worked for a foreign professional organisation of steel companies. According to the applicant, that organisation should be considered to be an international organisation and, therefore, the period during which he was working there should not be taken into account. The applicant also argues that, in any event, for most of the reference period he was not in Brussels on a permanent basis as his economic activities at that time were concentrated abroad.

Action brought on 11 August 2004 by House of Donuts International against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-333/04)

(2004/C 300/84)

(Language in which the application was lodged: English)

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 11 August 2004 by House of Donuts International, George Town, Grand Cayman (British West Indies) represented by N. Decker, lawyer with an address for service in Luxembourg.