

Case T-72/04

Sonja Hosman-Chevalier

v

Commission of the European Communities

(Officials — Remuneration — Expatriation allowance — Article 4(1)(a) of Annex VII to the Staff Regulations — Meaning of ‘work done for another State’)

Judgment of the Court of First Instance (First Chamber), 13 September 2005 II - 3268

Summary of the Judgment

- 1. Officials — Remuneration — Expatriation allowance — Conditions for granting — Work done for another Member State or for an international organisation — Meaning of ‘work done for another State’ — Member of staff of a permanent representation of a Member State to the European Union — Included
(Staff Regulations, Annex VII, Art. 4(1)(a))*

2. *Community law — Interpretation — Principles — Independent interpretation — Limits — Reference in certain cases to the law of the Member States*

1. The exception regarding the granting of expatriation allowance laid down in the final sentence of the second indent of Article 4(1)(a) of Annex VII to the Staff Regulations in favour of an official who during a period of five years ending six months before entry into the service resided in the country in which he is employed where he was in the service of another State or of an international organisation was established in order to take account of the fact that, in those circumstances, an official cannot be deemed to have established a lasting tie with the country in which he is employed due to the temporary nature of the secondment in that country.

laid down in Article 4(1)(a) of Annex VII to the Staff Regulations regardless of the particular and specific functions carried out by that person within that body.

(see paras 28-29, 42)

2. It follows from the requirement for a uniform application of Community law and the principle of equality that the terms of a provision of Community law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an independent and uniform interpretation throughout the Community; that interpretation must take into account the context of the provision and the purpose of the relevant regulations. In the absence of an express reference, the

The term 'State' used in that provision relates only to the State as a legal person and unitary subject of international law and its government bodies. In that regard, it is therefore sufficient that a person works for a body which is part of the State, such as a permanent representation to the European Union, in order to fall fully within the exception

application of Community law may sometimes necessitate a reference to the laws of the Member States where the Community court cannot identify in Community law or in the general

principles of Community law criteria enabling it to define the meaning and scope of such a provision by way of independent interpretation.

(see para. 40)