

JUDGMENT OF THE COURT OF FIRST INSTANCE

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of 20 April 2005

of 13 April 2005

in Case T-318/03 Atomic Austria GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾

in Case T- 353/03: Inge-Lise Nielsen v Council of the European Union ⁽¹⁾

(Community trade mark — Word mark ATOMIC BLITZ — Opposition of the proprietor of national word marks ATOMIC — Evidence of renewal of registration of the earlier mark — Scope of the examination conducted by OHIM — Rejection of opposition — Article 8(1)(b) of Regulation (EC) No 40/94)

(Officials — Refusal of promotion — Article 45 of the Staff Regulations — Manifest error of assessment — Consideration of comparative merits — Admissibility)

(2005/C 155/33)

(2005/C 155/34)

*(Language of the case: German)**(Language of the case: French)*

In Case T-318/03: Atomic Austria GmbH, established in Altenmarkt (Austria), represented by G. Kucsko and C. Schumacher, lawyers, against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: G. Schneider and B. Müller), the other party to the proceedings before the Board of Appeal having been Fabricas Agrupadas de Muñecas de Onil, SA, established in Onil (Spain) — action against the decision of the Second Board of Appeal of OHIM of 9 July 2003 (Case R 95/2003-2), relating to opposition proceedings between Atomic Austria GmbH and Fabricas Agrupadas de Muñecas de Onil, SA, — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, A.W.H. Meij and I. Pelikánová, Judges; J. Plingers, Administrator, for the Registrar, gave a judgment on 20 April 2005, in which it:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 9 July 2003 (Case R 95/2003-2);
2. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

⁽¹⁾ OJ C 304 of 13.12.2003.

In Case T-353/03: Inge-Lise Nielsen, a former official of the Council of the European Union, residing in Villiers-la-Ville (Belgium), represented by S. Orlandi, A. Coolen, J.-N. Lois and É. Marchal, lawyers, with an address for service in Luxembourg, against Council of the European Union (Agents: F. Anton and M. Sims) — application for annulment of the decision of the Council not to promote the applicant to grade C 1 in the 2002 round of promotions, the Court of First Instance (Fourth Chamber), composed of H. Legal, President, P. Lindh and V. Vadapalas, Judges; I. Natsinas, Administrator, for the Registrar, gave a judgment on 13 April 2005, in which it:

1. Dismisses the application;
2. Orders the parties to bear their own costs.

⁽¹⁾ OJ No C 7 of 10.1.2004.