

1. Annuls the Commission's decision, dated 14 August 2002, not to promote the applicant to Grade A4 in the 2002 promotion procedure;
2. Dismisses the application as inadmissible in so far as it seeks compensation for the applicant;
3. Orders the defendant to bear all the costs.

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(<sup>1</sup>) OJ C 200 of 20.8.2003.

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 7 June 2005

**in Case T-303/03 Lidl Stiftung v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (<sup>1</sup>)**

**(Community trade mark — Opposition proceedings — Application for word mark Salvita — Earlier national word mark SOLEVITA — Proof of use of the earlier national trade mark — Rejection of the opposition)**

(2005/C 193/41)

(Language of the case: German)

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 31 May 2005

**in Case T- 294/03, Jean-Louis Gibault v Commission of the European Communities (<sup>1</sup>)**

**(Open competition — Non-inclusion on the list of successful candidates — Lack of a statement of reasons — Discrimination on grounds of nationality)**

(2005/C 193/40)

(Language of the case: French)

In Case T-294/03: Jean-Louis Gibault, residing in Wattrelos (France), represented by F.Tuytschaever, lawyer, against Commission of the European Communities (Agent: J. Currall, with an address for service in Luxembourg) — application for annulment of the decision of the selection board for open competition COM/A/6/01 not to include the applicant on the list of successful candidates — the Court of First Instance (First Chamber), composed of J.D. Cooke, President, I. Labucka and V. Trstenjak, Judges; I. Natsinas, Administrator, for the Registrar, gave a judgment on 31 May 2005, in which it:

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

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(<sup>1</sup>) OJ C 251 of 18.10.2003.

In Case T-303/03: Lidl Stiftung & Co. KG, established in Neckarsulm (Germany), represented by P. Groß, lawyer, against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: U. Pfléghar and G. Schneider), the other party to the proceedings before the Board of Appeal of OHIM, intervener before the Court, being REWE-Zentral AG, established in Cologne (Germany), represented initially by M. Kinkeldey, and subsequently by M. Kinkeldey and C. Schmitt, lawyers — action brought against the decision of the First Board of Appeal of OHIM of 30 June 2003 in Case R 408/2002-1 concerning the opposition of the proprietor of the national mark SOLEVITA to the registration of the Community word mark Salvita — the Court of First Instance (Fifth Chamber), composed of M. Vilaras, President, F. Dehousse and D. Šváby, Judges; H. Jung, Registrar, gave a judgment on 7 June 2005, in which it:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

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(<sup>1</sup>) OJ C 275 of 15.11.2003.