

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Reference for a preliminary ruling from the Rechtbank 's-Gravenhage, sitting at Zwolle-Lelystad (Netherlands) lodged on 31 March 2011 — Bibi Mohammad Imran v Minister van Buitenlandse Zaken**

(Case C-155/11)

(2011/C 219/02)

*Language of the case: Dutch***Referring court**

Rechtbank 's-Gravenhage, sitting at Zwolle-Lelystad

**Parties to the main proceedings***Appellant:* Bibi Mohammad Imran*Respondent:* Minister van Buitenlandse Zaken**Questions referred**

1. Does Article 7(2) of the Family Reunification Directive<sup>(1)</sup> allow a Member State to refuse entry and residence to a family member, as referred to in Article 4 of the Family Reunification Directive, of a third country national lawfully residing in that Member State, exclusively on the ground that that family member has not passed the integration examination abroad as prescribed in the legislation of that Member State?
2. Is it important in answering Question 1 that the family member concerned is a mother of eight, of whom seven are minors, lawfully residing in that Member State?
3. Is it important in answering Question 1 whether, in the country of residence, accessible tuition is available to the family member in the language of that Member State?
4. Is it important in answering Question 1 whether the family member concerned, given his or her educational background and personal circumstances, particularly medical problems, would be able to pass that examination in the near future?

5. Is it important in answering Question 1 that no reviews take place in respect of the provisions of Article 5(5) and Article 17 of the Family Reunification Directive, Article 24 of the Charter or the principle of proportionality as contained in European Union law?

6. Is it important in answering Question 1 that nationals of certain other third countries are exempt, purely on the basis of their nationality, from the obligation to pass the civic examination abroad?

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<sup>(1)</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12).

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**Reference for a preliminary ruling from the Rechtbank van koophandel Brussel (Belgium), lodged on 28 April 2011 — European Union, represented by the European Commission v Otis NV and Others**

(Case C-199/11)

(2011/C 219/03)

*Language of the case: Dutch***Referring court**

Rechtbank van koophandel Brussel

**Parties to the main proceedings***Applicant:* European Union, represented by the European Commission*Defendants:* Otis NV

Kone Belgium NV

Schindler NV

ThyssenKrupp Liften Ascenseurs NV

General Technic-Otis Sàrl

Kone Luxembourg Sàrl

Schindler Sàrl

ThyssenKrupp Ascenseurs Luxembourg Sàrl

formation of the cartel) assert its entitlement to compensation under European law, which is likewise a fundamental right ...?

### Questions referred

1. (a) The Treaty states in Article 282, now Article [335], that the European Union is to be represented by the Commission; — Article 335 of the Treaty on the Functioning of the European Union, on the one hand, and Articles 103 and 104 of the Financial Regulation, on the other, state that, in administrative matters relating to their operation, the institutions concerned are to represent the European Union, with the possible result that [it] is the institutions, whether or not exclusively, ... which may be parties to legal proceedings; — there is no doubt that receipt by contractors, etc., of payment ... of inflated prices as a result of collusive practices comes within the concept of fraud; — in Belgian national law there is the principle of *'Lex specialis generalibus derogat'*; — to the extent [to which] that principle of law also finds acceptance in European law, is it then not the case that the initiative for bringing the claims (except where the Commission itself was the contracting authority) was vested in the institutions concerned?
- (b) (Subsidiary question) Ought the Commission not at least to have been conferred with authorisation by the institutions to represent them for the purpose of safeguarding their legal rights?
2. (a) Article 47 of the Charter of Fundamental Rights of the European Union and Article 6(1) of the European Convention on Human [Rights] guarantee every person's right to a fair trial as well as the related principle that no one can be the judge in his or her own case; — is it reconcilable with that principle if the Commission, in an initial phase, acts as the competition authority and penalises the conduct complained of — namely, the formation of a cartel — as a breach of Article 81, now Article 101, of the Treaty after it has itself conducted the investigation in that regard, and subsequently, in a second phase, prepares the proceedings for seeking compensation before the national court and takes the decision to bring those proceedings, while the same Member of the Commission is responsible for both matters, which are connected, *a fortiori* as the national court seised of the matter cannot depart from the decision imposing penalties?
- (b) (Subsidiary question) If the answer to Question 2(a) is in the [negative], (there is irreconcilability), how then must the victim (the Commission and/or the institutions and/or the European Union) of an unlawful act (the

**Reference for a preliminary ruling from the Arbeidsrechtbank Antwerpen (Belgium) lodged on 28 April 2011 — Anton Las v PSA Antwerp NV, previously Hesse Noord Natie NV**

(Case C-202/11)

(2011/C 219/04)

*Language of the case: Dutch*

### Referring court

Arbeidsrechtbank Antwerpen

### Parties to the main proceedings

*Applicant:* Anton Las

*Defendant:* PSA Antwerp NV, previously Hesse Noord Natie NV

### Question referred

Does the Decree of the Flemish Community of 19 July 1973 (B.S. 6 September 1973) infringe Article 39 of the EC Treaty concerning freedom of movement for workers within the European Union, in that it imposes an obligation on an undertaking situated in the Flemish language region when hiring a worker in the context of employment relations with an international character, to draft all documents relating to the employment relationship in Dutch, on pain of nullity?

**Reference for a preliminary ruling from the Grondwettelijk Hof (Belgium) lodged on 28 April 2011 — nv All Projects & Developments and Others**

(Case C-203/11)

(2011/C 219/05)

*Language of the case: Dutch*

### Referring court

Grondwettelijk Hof

### Parties to the main proceedings

*Applicants:* nv All Projects & Developments

nv Bouw- en Coördinatiekantoor Andries

nv Belgische Gronden Reserve