



Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

26 March 2020*

(Review of the judgments of the General Court of the European Union in *Simpson v Council* (T-646/16 P) and *HG v Commission* (T-693/16 P) — Civil service — Composition of the panel of judges which delivered the judgments at first instance — Procedure for the appointment of a judge to the European Union Civil Service Tribunal — Article 47 of the Charter of Fundamental Rights of the European Union — Tribunal established by law — Incidental review of legality — Effect on the unity and consistency of EU law)

In Joined Cases C-542/18 RX-II and C-543/18 RX-II,

REVIEW, pursuant to the second subparagraph of Article 256(2) TFEU, of the judgments of the General Court of the European Union (Appeal Chamber) of 19 July 2018, *Simpson v Council* (T-646/16 P, not published, EU:T:2018:493), and *HG v Commission* (T-693/16 P, not published, EU:T:2018:492), delivered in the proceedings

Erik Simpson, official of the Council of the European Union, residing in Brussels (Belgium),

v

Council of the European Union (C-542/18 RX-II),

and

HG, official of the European Commission,

v

European Commission (C-543/18 RX-II),

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, R. Silva de Lapuerta, Vice-President, A. Prechal, M. Vilaras, E. Regan, M. Safjan, S. Rodin and I. Jarukaitis, Presidents of Chambers, M. Ilešič (Rapporteur), C. Toader, D. Šváby, F. Biltgen and N. Piçarra, Judges,

Advocate General: E. Sharpston,

Registrar: V. Giacobbo-Peyronnel, Administrator,

having regard to the written procedure and further to the hearing on 21 May 2019,

* Languages of the case: English and French.

after considering the observations submitted on behalf of:

- Mr Simpson, by M. Velardo, avocate,
- the Council of the European Union, by M. Bauer and R. Meyer, acting as Agents,
- HG, by L. Levi, avocate,
- the European Commission, by G. Berscheid, T.S. Bohr and F. Erlbacher, acting as Agents,
- the Bulgarian Government, by E. Petranova, L. Zaharieva and T. Mitova, acting as Agents,

having regard to Article 62a and the first paragraph of Article 62b of the Statute of the Court of Justice of the European Union,

after hearing the Opinion of the Advocate General at the sitting on 12 September 2019,

gives the following

Judgment

- 1 The purpose of these proceedings is to review the judgments of the General Court of the European Union (Appeal Chamber) of 19 July 2018, *Simpson v Council* (T-646/16 P, not published, ‘the first judgment under review’, EU:T:2018:493), and *HG v Commission* (T-693/16 P, not published, ‘the second judgment under review’, EU:T:2018:492) (together, ‘the judgments under review’).
- 2 By the first judgment under review, the General Court set aside the order of the European Union Civil Service Tribunal of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136), by which the Tribunal had dismissed the action brought by Mr Erik Simpson for (1) annulment of the decision of the Council of the European Union of 9 December 2010 rejecting his request that he be upgraded to grade AD 9 after he had passed Open Competition EPSO/AD/113/07 organised for the recruitment of heads of unit at grade AD 9 in the field of translation, inter alia those with Estonian as their main language, and of the Council’s decision of 7 October 2011 rejecting his complaint against that first decision of 9 December 2010 (‘the decision of 7 October 2011’); and (2) an order that the Council pay compensation for the damage sustained. That order had been made following the judgment of the General Court of 22 October 2015, *Council v Simpson* (T-130/14 P, EU:T:2015:796), setting aside the judgment of the Civil Service Tribunal of 12 December 2013, *Simpson v Council* (F-142/11, EU:F:2013:201), and referring the case back to the Civil Service Tribunal.
- 3 By the second judgment under review, the General Court set aside the judgment of the Civil Service Tribunal of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155), by which the Tribunal had dismissed the action brought by HG for, principally (1) annulment of the decision of the European Commission of 10 February 2015 imposing on him the disciplinary penalty of deferment of advancement to a higher step for a period of 18 months and ordering him to pay compensation for the damage sustained by the Commission in the amount of EUR 108 596.35 (‘the decision of 10 February 2015’), and, so far as necessary, of the decision rejecting the complaint; and (2) an order that the Commission pay compensation for the damage allegedly sustained.
- 4 The review concerns the question whether, having regard, in particular, to the general principle of legal certainty, the judgments under review affect the unity or consistency of EU law in so far as the General Court, as court of appeal, held that the composition of the panel of judges of the Civil Service Tribunal which had made the order of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136), and the judgment of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155) (together, ‘the contested

decisions'), had been irregular, on the basis of an irregularity affecting the procedure for the appointment of one of the members of that panel of judges, leading to a breach of the principle of the lawful judge, laid down in the first sentence of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter').

- 5 The review also concerns the question whether, like acts covered by Article 277 TFEU, the appointment of a judge may form the subject matter of an incidental review of legality or whether such an incidental review of legality is — as a matter of principle or after the passage of a certain period of time — excluded or limited to certain types of irregularity in order to ensure legal certainty and the force of *res judicata*.

Legal context

The Charter

- 6 Article 47 of the Charter, entitled 'Right to an effective remedy and to a fair trial', states, in the first and second paragraphs thereof:

'Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.'

Decision 2004/752/EC, Euratom and Annex I to the Statute of the Court of Justice of the European Union

- 7 Recital 6 of Council Decision 2004/752/EC, Euratom of 2 November 2004 establishing the European Union Civil Service Tribunal (OJ 2004 L 333, p. 7), stated:

'The number of judges of the judicial panel should match its caseload. To facilitate decision-making by the Council in the appointment of judges, provision should be made for the Council to establish an independent Advisory Committee to verify that applications received meet the relevant conditions.'

- 8 Under Article 2 of Decision 2004/752, an Annex I, entitled 'The European Union Civil Service Tribunal', had been added to the Statute of the Court of Justice of the European Union. That annex, in the version applicable at the time of the contested decisions ('Annex I to the Statute of the Court of Justice of the European Union'), provided, in Article 2:

'The Civil Service Tribunal shall consist of seven judges. ...

The judges shall be appointed for a period of six years. Retiring judges may be reappointed.

Any vacancy shall be filled by the appointment of a new judge for a period of six years.'

9 Article 3 of Annex I to the Statute of the Court of Justice of the European Union provided:

‘1. The judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 257 [TFEU], after consulting the committee provided for by this Article. When appointing judges, the Council shall ensure a balanced composition of the Civil Service Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 257 [TFEU] may submit an application. The Council, acting on a recommendation from the Court of Justice [of the European Union], shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the General Court and lawyers of recognised competence. The committee’s membership and operating rules shall be determined by the Council, acting on a recommendation by the President of the Court of Justice.

4. The committee shall give an opinion on candidates’ suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are judges to be appointed by the Council.’

The public call for applications of 3 December 2013

10 On 3 December 2013, the Council published in the *Official Journal of the European Union* a public call for applications for the appointment of judges to the European Union Civil Service Tribunal (OJ 2013 C 353, p. 11, ‘the public call for applications of 3 December 2013’), paragraph 4 of which was worded as follows:

‘As there are two judges whose term of office is due to expire on 30 September 2014, a call is made for applications with a view to the appointment of two new judges for a period of six years from 1 October 2014 to 30 September 2020.’

Decision (EU, Euratom) 2016/454

11 Recitals 1 to 6 of Council Decision (EU, Euratom) 2016/454 of 22 March 2016 appointing three Judges to the European Union Civil Service Tribunal (OJ 2016 L 79, p. 30) state:

‘(1) The mandate of two Judges of the ... Civil Service Tribunal ... has ended with effect from 30 September 2014, and the mandate of a further Judge has ended with effect from 31 August 2015. It is therefore necessary under Article 2 and Article 3(1) of Annex I to the ... Statute of the Court of Justice of the European Union ... to appoint three Judges to fill those vacancies.

(2) Following a public call for applications [of 3 December] 2013 ..., the Committee set up by Article 3(3) of Annex I to the [Statute of the Court of Justice of the European Union] delivered an opinion on the candidates’ suitability to perform the duties of a Judge of the Civil Service Tribunal. The selection committee appended to its opinion a list of six candidates having the most suitable high-level experience.

- (3) Following the political agreement on the reform of the judicial architecture of the European Union that led to the adoption of Regulation (EU, Euratom) 2015/2422 of the European Parliament and of the Council [of 16 December 2015 amending Protocol No 3 on the Statute of the Court of Justice of the European Union (OJ 2015 L 341, p. 14)], the Court of Justice [of the European Union] presented on 17 November 2015 a proposal for a Regulation of the European Parliament and of the Council on the transfer to the General Court ... of jurisdiction at first instance in disputes between the Union and its servants with effect from 1 September 2016.
- (4) In these circumstances, for reasons of timing, it is appropriate not to publish a new public call for applications, but rather to draw on the list of the six candidates having the most suitable high-level experience established by the selection committee following the public call for applications [of 3 December] 2013.
- (5) It is therefore appropriate to appoint three of the persons included on that list as Judges of the Civil Service Tribunal, ensuring a balanced composition of the Civil Service Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented. The three persons on that list having the most suitable high-level experience are Mr Sean Van Raepenbusch, Mr João Sant’Anna and Mr Alexander Kornezov. Mr João Sant’Anna and Mr Alexander Kornezov should be appointed with effect from the date of entry into force of this Decision. Given that Mr Sean Van Raepenbusch was already a Judge at the Civil Service Tribunal until 30 September 2014 and continued to hold office pending the Decision of the Council in accordance with Article 5 of [the Statute of the Court of Justice of the European Union], it is appropriate to appoint him for a new mandate with effect from the day after the end of his previous mandate.
- (6) It follows from Article 2 of Annex I to the [Statute of the Court of Justice of the European Union] that any vacancy is to be filled by the appointment of a new Judge for a period of six years. However, upon the application of the proposed Regulation on the transfer to the General Court of the European Union of jurisdiction at first instance in disputes between the Union and its servants, the Civil Service Tribunal will no longer exist, and the mandate of the three Judges appointed by this Decision will thus end *ipso facto* on the date preceding that on which that Regulation applies.’

¹² Article 1 of Decision 2016/454 provides:

‘The following are hereby appointed as Judges to the European Union Civil Service Tribunal:

- Mr Sean Van Raepenbusch, with effect from 1 October 2014,
- Mr João Sant’Anna, with effect from 1 April 2016,
- Mr Alexander Kornezov, with effect from 1 April 2016.’

Background to the cases subject to review

The appointment procedure at issue

¹³ By Council Decision 2009/474/EC, Euratom of 9 June 2009 appointing a Judge to the European Union Civil Service Tribunal (OJ 2009 L 156, p. 56), Ms Rofes i Pujol was appointed Judge to the European Union Civil Service Tribunal for a period of six years, from 1 September 2009 to 31 August 2015.

- 14 Following the public call for applications of 3 December 2013, launched in anticipation of the expiry on 30 September 2014 of the terms of office of two other Judges of the Civil Service Tribunal, namely Mr Van Raepenbusch and Mr Kreppel, the committee referred to in Article 3(3) of Annex I to the Statute of the Court of Justice of the European Union ('the Selection Committee') drew up a list of six candidates.
- 15 Since the Council had not appointed anyone to fill the posts occupied by Mr Van Raepenbusch and Mr Kreppel before their terms of office expired, they continued to hold office beyond 30 September 2014, in accordance with the third paragraph of Article 5 of the Statute of the Court of Justice of the European Union, according to which a judge is to continue to hold office until his or her successor takes up his or her duties. That provision was applicable to judges of the Civil Service Tribunal under the first paragraph of Article 5 of Annex I to the Statute.
- 16 No public call for applications was published in anticipation of the expiry of the term of office of Ms Rofes i Pujol. In that context, and in accordance with the provisions referred to in the previous paragraph, Ms Rofes i Pujol continued to hold office beyond 31 August 2015.
- 17 By Decision 2016/454, the Council appointed three judges to the Civil Service Tribunal on 22 March 2016, namely Mr Van Raepenbusch, with effect from 1 October 2014, and Mr Sant'Anna and Mr Kornezov, with effect from 1 April 2016. For the purpose of appointing judges to those three posts ('the appointment procedure at issue'), the Council used the list of candidates drawn up following the public call for applications of 3 December 2013, including for the vacant post previously occupied by Ms Rofes i Pujol ('the third post'), even though the public call for applications did not refer to that post.
- 18 Mr Sant'Anna and Mr Kornezov were sworn in on 13 April 2016.
- 19 By decision of 14 April 2016 (OJ 2016 C 146, p. 11), the Civil Service Tribunal attached Judges Bradley, Sant'Anna and Kornezov to its Second Chamber for the period from 14 April to 31 August 2016.

Case C-542/18 RX-II

Facts of the dispute

- 20 Mr Simpson, who had been a member of the auxiliary staff in the Estonian translation unit at the Council since 1 June 2004, was recruited on 1 January 2005 as a probationary official at grade AD 5, after passing Open Competition EPSO/LA/3/03 for the constitution of a reserve list for recruitment of assistant translators of grade (LA) 8. He was promoted to grade AD 6 on 1 January 2008.
- 21 In 2009, Mr Simpson passed competition EPSO/AD/113/07. The reserve list from that competition was published on 28 April 2009. On 25 June 2010, Mr Simpson requested, on the basis of Article 90(1) of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), that he be upgraded to grade AD 9, invoking the fact that he had passed competition EPSO/AD/113/07 corresponding to that grade and that three officials who, according to him, were in a situation comparable to his own, had been upgraded after passing a competition for a grade higher than their own.
- 22 By a note of 9 December 2010 the Council, refusing that request, stated that, in the absence of a provision of the Staff Regulations conferring a right upon officials to be automatically upgraded on the basis of their having passed a competition for a higher grade than their own, such a decision could be adopted only where it was in the interest of the service and, in the present case, given the situation in 2010 in the Estonian-language translation unit, that was not the case.

23 On 8 March 2011, Mr Simpson lodged a complaint with the Council, under Article 90(2) of the Staff Regulations, against that decision of the Council. That complaint was rejected by the decision of 7 October 2011.

Proceedings before the Civil Service Tribunal and the General Court prior to the first judgment under review

24 On 27 December 2011, Mr Simpson brought an action before the Civil Service Tribunal against the decision of 7 October 2011.

25 By its judgment of 12 December 2013, *Simpson v Council* (F-142/11, EU:F:2013:201), the Civil Service Tribunal annulled the decision of 7 October 2011 for infringement of the obligation to state reasons.

26 By application lodged at the General Court Registry on 24 February 2014, the Council appealed against that judgment.

27 By a judgment of 22 October 2015, *Council v Simpson* (T-130/14 P, EU:T:2015:796), the General Court upheld that appeal on the ground that a substantive inaccuracy had vitiated the Civil Service Tribunal's reasoning, and referred the case back to the Civil Service Tribunal.

28 By order of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136), the Second Chamber of the Civil Service Tribunal dismissed Mr Simpson's action in its entirety.

29 By written pleading lodged at the General Court Registry on 6 September 2016, Mr Simpson appealed against that order. That appeal was registered at the General Court Registry as case number T-646/16 P.

30 On 21 March 2018, the President of the Appeal Chamber of the General Court decided to reopen the written procedure in that case following, first, the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), by which the General Court (Appeal Chamber) set aside the judgment of 28 June 2016, *FV v Council* (F-40/15, EU:F:2016:137) on the ground that the Chamber which had delivered the latter judgment had been improperly constituted, and, secondly, the decision of 19 March 2018, *Review FV v Council* (C-141/18 RX, EU:C:2018:218), by which the Court of Justice (Reviewing Chamber) decided that it was not necessary to review that judgment.

31 On 22 March 2018, the General Court invited the parties to submit observations on the implications for Case T-646/16 P of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22). In response to that invitation, the parties submitted, first, that a ground of appeal alleging an irregularity in the composition of the panel of judges, such as the General Court had found in that judgment, involved a matter of public policy which had to be examined by the court of appeal of its own motion and, secondly, that the order of the Civil Service Tribunal of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136), had been signed by the same panel of judges as that whose composition had been held in that judgment to be irregular. Thus, according to the parties, that order of the Civil Service Tribunal had to be set aside for the same reasons as those upheld by the General Court in that judgment.

The first judgment under review

32 By the first judgment under review, the General Court set aside the order of the Civil Service Tribunal of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136), and referred the case to a Chamber of the General Court other than that which had ruled on the appeal, to rule at first instance on the action.

33 Paragraphs 38 to 46 of the first judgment under review read as follows:

- ‘38 In the first place, according to settled case-law of the Court of Justice, a ground of appeal alleging an irregularity in the composition of the panel of judges involves a matter of public policy and must be examined by the court on appeal of its own motion, even if that irregularity has not been raised at first instance (see, to that effect, judgment of 1 July 2008, *Chronopost and La Poste v UFEX and Others*, C-341/06 P and C-342/06 P, EU:C:2008:375, paragraphs 44 to 50 and the case-law cited).
- 39 In the second place, it is settled case-law of the Court of Justice that the Courts of the European Union cannot, as a general rule, base their decisions on a plea raised of their own motion — even one involving a matter of public policy — without first having invited the parties to submit their observations on that plea (see judgment of 17 December 2009, *Review M v EMEA*, C-197/09 RX-II, EU:C:2009:804, paragraph 57 and the case-law cited).
- 40 In the third place, it must be observed that in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), in the examination of the ground of appeal alleging an irregularity in the composition of the panel of judges, raised by the appellant on the ground that the procedure for the appointment of one of the judges which sat on that panel was flawed, the General Court held as follows.
- 41 First, the General Court found that the Civil Service Tribunal (Second Chamber), when it delivered the judgment of 28 June 2016, *FV v Council* (F-40/15, EU:F:2016:137), was composed of the Judges K. Bradley, J. Sant’Anna and A. Kornezov. The General Court also found that, in accordance with the operative part and recital 5 of [Decision 2016/454], the Council had appointed, in the first place, Mr S. Van Raepenbusch, in the second place, Mr Sant’Anna and, in the third place, Mr Kornezov as Judges of the Civil Service Tribunal. Thus, the General Court observed that Judge Bradley had not been appointed as a Judge of the Civil Service Tribunal under Decision 2016/454 and therefore could not be the judge to which the plea mentioned in paragraph 40 above referred, but that, on the other hand, the Judges Sant’Anna and Kornezov had been appointed as Judges of the Civil Service Tribunal under that Decision.
- 42 Secondly, the General Court examined the ground of appeal alleging a breach of the appointment procedure on the ground that the Council appointed a judge to the [third post] from the list of candidates drawn up as a result of the public call for applications [of] 3 December 2013 to fill the vacant posts occupied by Judges Van Raepenbusch and H. Kreppel in the Civil Service Tribunal, even though that list had not been drawn up for the purposes of appointing a judge to fill the [third post]. In this connection, the General Court held in paragraph 51 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), that by using the list drawn up as a result of the public call for applications of 3 December 2013 to fill the [third post] ..., the Council had failed to comply with the legal framework imposed by the public call for applications of 3 December 2013. Thus, after noting that the Council had, in accordance with the operative part and recital 5 of Decision 2016/454, appointed as Judges of the Civil Service Tribunal, in the first place, Mr Van Raepenbusch, in the second place, Mr Sant’Anna and, in the third place, Mr Kornezov, the General Court held that that institution was entitled to make the first two appointments from that list, but not the third appointment.
- 43 Thirdly, in paragraph 78 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), the General Court held that in the light of the importance of observing the rules governing the appointment of a judge with regard to litigants’ confidence and that of the public in the independence and impartiality of courts and tribunals, the judge concerned could not be regarded as a judge assigned by law for the purposes of the first sentence of the second paragraph of Article 47 of the [Charter] and, therefore, set aside the judgment of 28 June 2016, *FV v Council* (F-40/15, EU:F:2016:137) in its entirety.

- 44 It is sufficient to state in the present case that the order [of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136)] was adopted by the Civil Service Tribunal (Second Chamber) composed of the Judges Bradley, Sant’Anna and Kornezov, namely the same panel of judges as that which delivered the judgment of 28 June 2016, *FV v Council* (F-40/15, EU:F:2016:137) and whose composition was found to have been irregular in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22).
- 45 The Court must therefore raise of its own motion the ground of appeal alleging an irregularity in the composition of the panel of judges, which in accordance with the consistent case-law of the Court of Justice recalled in paragraph 38 above involves a matter of public policy and must be examined by the court on appeal of its own motion even if that irregularity has not been raised at first instance (see, to that effect, judgment of 1 July 2008, *Chronopost and La Poste v UFEX and Others*, C-341/06 P and C-342/06 P, EU:C:2008:375, paragraphs 44 to 50 and the case-law cited). After hearing the parties, it must then apply the principles set out by the General Court in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22) to the present case.
- 46 Accordingly, the order under appeal must be set aside in its entirety on the grounds of infringement of the principle of the right to a judge assigned by law, enshrined in the first sentence of the second paragraph of Article 47 of the [Charter], without it being necessary to examine the grounds of appeal raised by the appellant.’

Case C-543/18 RX-II

Facts of the dispute

- 34 From 16 May 2007 to 31 August 2013, HG, a Commission official, was on detachment to work with the Commission’s delegation to the United Nations in New York (United States).
- 35 On 15 September 2008, the Commission and HG signed an agreement for the provision of staff accommodation appropriate to his family’s needs (‘the staff accommodation’) under Article 5 of Annex X to the Staff Regulations.
- 36 In October 2008, HG informed the Commission’s Head of Delegation at the United Nations in New York, Ms A, that he had not been able to move into the staff accommodation because of the health problems of his daughter, who had been born in June of that year, and that he occupied the staff accommodation but also lived regularly in his wife’s apartment in order to have the benefit of his family’s company. HG also claims to have informed Ms A, on an unspecified date, that one of his friends, Mr B, occupied the staff accommodation for ‘a couple of hours’ or ‘a couple of days every two weeks’, as ‘house-sitter’. In that regard, HG states that he had asked Mr B in September 2008 to complete the formalities with the electricity supplier for the staff accommodation and that he had given Mr B the key to the staff accommodation in December 2008.
- 37 By the decision of 10 February 2015, the tripartite appointing authority found that, first, by not residing in the staff accommodation with his family, HG had infringed Article 5 of Annex X to the Staff Regulations; secondly, by failing to sign the contract for the supply of electricity himself, he had failed to fulfil his obligations under point 22.10.11.4 of the Vade Mecum of the ‘External Relations’ Directorate-General (DG) for staff engaged in the delegations; and, thirdly, the loss incurred because the institution had borne the cost of the unjustified lease of the staff accommodation had been caused by HG’s misconduct. Consequently, the tripartite appointing authority imposed on HG the disciplinary penalty of deferring advancement to a higher step for a period of 18 months and ordered him to pay compensation for that loss in the amount of EUR 108 596.35.

38 On 9 May 2015, HG filed a complaint under Article 90(2) of the Staff Regulations against the decision of 10 February 2015. That complaint was rejected by the tripartite appointing authority on 10 September 2015.

Proceedings before the Civil Service Tribunal and the General Court prior to the second judgment under review

39 By application received at the Registry of the Civil Service Tribunal on 21 December 2015, HG brought an action for, principally, (1) annulment of the decision of 10 February 2015 and, so far as necessary, of the decision rejecting his complaint, and (2) an order that the Commission pay compensation for the damage allegedly sustained.

40 By judgment of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155), the Second Chamber of the Civil Service Tribunal dismissed that action and ordered HG to bear his own costs and to pay those incurred by the Commission.

41 By written pleading lodged at the General Court Registry on 28 September 2016, HG appealed against that judgment. That appeal was registered at the General Court Registry as case number T-693/16 P.

42 Following delivery of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), the substance of which is summarised in paragraph 30 of the present judgment, HG enquired, by document lodged on 31 January 2018, whether the General Court intended to seek the parties' observations as to the implications of that judgment for the procedure relating to his appeal.

43 By order of 23 March 2018, the President of the Appeal Chamber of the General Court reopened the oral part of the procedure. On 26 March 2018, the General Court invited the parties to submit their observations on the conclusions to be drawn, in the present case, from that judgment.

44 In response to that invitation, the parties indicated that the judgment of the Civil Service Tribunal of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155) had been delivered by the same panel of judges as that whose composition had been considered to be irregular in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22). HG also argued that a ground of appeal alleging an irregularity in the composition of the panel of judges, such as the General Court had found in that judgment, involved a matter of public policy, and concluded from this that the judgment of the Civil Service Tribunal of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155) had to be set aside for the same reasons as those upheld by the General Court in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22). The Commission recognised that the grounds on the basis of which the General Court had delivered the latter judgment might justify the setting aside of the judgment of the Civil Service Tribunal of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155) and referral of the case to a Chamber of the General Court other than that which had been called upon to rule on HG's appeal.

The second judgment under review

45 By the second judgment under review, the General Court set aside the judgment of the Civil Service Tribunal of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155), and referred the case to a Chamber of the General Court other than that which had ruled on the appeal, to rule at first instance on the action.

46 That decision is based, in paragraphs 39 to 47 of the second judgment under review, on reasoning that is in essence identical to that set out in paragraph 33 of the present judgment.

The procedure before the Court of Justice

- 47 Following the proposal of the First Advocate General, the Reviewing Chamber held, by its decisions of 17 September 2018, *Review Simpson v Council* (C-542/18 RX), and *Review HG v Commission* (C-543/18 RX), adopted pursuant to the second paragraph of Article 62 of the Statute of the Court of Justice of the European Union and Article 193(4) of the Rules of Procedure of the Court of Justice, that the judgments concerned should be reviewed in order to determine whether they affect the unity or consistency of EU law. Furthermore, pursuant to Article 195(5) of the Rules of Procedure, the Reviewing Chamber decided on 14 February 2019 to request the Court to assign the two cases under review to the Grand Chamber.
- 48 In view of the connection between Cases C-542/18 RX-II and C-543/18 RX-II, they should be joined for the purposes of the judgment, the parties having been given the opportunity during the hearing to comment on the possibility of such joinder.

Review

- 49 As a preliminary point, it should be noted that the answer to the question to be reviewed, as set out in paragraphs 4 and 5 of the present judgment, cannot be inferred solely from the fact that, by its decision of 19 March 2018, *Review FV v Council* (C-141/18 RX, EU:C:2018:218), the Court of Justice decided that it was not necessary to review the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), on which the General Court based the judgments under review. As is apparent from paragraphs 4 and 5 of that decision of the Court of Justice, the reason for the decision was that, in his proposal for review of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), the First Advocate General, whilst setting out the specific reasons that led him to bring the matter before the Reviewing Chamber, indicated that that judgment ‘does not, in its legal reasoning, constitute a serious risk that the unity or consistency of EU law may be affected’. It thus followed from that proposal for review that the conditions, under the first paragraph of Article 62 of the Statute of the Court of Justice of the European Union, for the review of a decision of the General Court were not met.
- 50 As regards the answer to the question to be reviewed in this case, it is necessary to begin by examining whether, having regard, in particular, to the general principle of legal certainty, the General Court erred in law by setting aside the contested decisions on the ground that the composition of the panel of judges of the Civil Service Tribunal which had delivered those decisions had been irregular because of an irregularity affecting the procedure for the appointment of one of the members of that panel of judges, leading to a breach of the principle of the lawful judge, laid down in the first sentence of the second paragraph of Article 47 of the Charter.
- 51 In the context of that examination, it is necessary to determine, first, in what circumstances the appointment of a judge may, like acts covered by Article 277 TFEU, form the subject matter of an incidental review of legality. Secondly, the Court must verify whether, in so far as the irregularity concerning the appointment procedure is established, as determined by the General Court, that irregularity did indeed lead to an infringement of the first sentence of the second paragraph of Article 47 of the Charter, justifying the setting aside of those decisions.
- 52 If that examination reveals that the judgments under review are indeed vitiated by errors of law, it will then be necessary to assess whether those judgments affect the unity or consistency of EU law.

The conditions for an incidental review of the legality of the appointment procedure at issue

- 53 In the judgments under review, the General Court ruled that it had to raise of its own motion the ground of appeal alleging an irregularity in the composition of the panel of judges that delivered the contested decisions. Taking into account the judgment of the Court of Justice of 1 July 2008, *Chronopost and La Poste v UFEX and Others* (C-341/06 P and C-342/06 P, EU:C:2008:375), and also the judgment of the General Court of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), it found that a matter of public policy was indeed involved which accordingly had to be examined by the court on appeal of the court's own motion even if that irregularity had not been raised at first instance.
- 54 As a preliminary point, it must be held that Decision 2016/454, by which the successor to the third post was appointed as judge to the Civil Service Tribunal, does not, as the Advocate General noted in particular in points 118 to 124 of her Opinion, constitute a measure of general application, for the purposes of Article 277 TFEU.
- 55 However, it follows from the fundamental right to an effective remedy before an independent and impartial tribunal previously established by law, guaranteed by Article 47 of the Charter, that everyone must, in principle, have the possibility of invoking an infringement of that right. Accordingly the Courts of the European Union must be able to check whether an irregularity vitiating the appointment procedure at issue could lead to an infringement of that fundamental right.
- 56 It is also necessary to examine whether the fact that none of the parties in the present cases had taken issue with the regularity of the panel of judges that had adopted the contested decisions precluded the General Court from examining that issue of regularity of its own motion.
- 57 In that regard, it must be emphasised that the guarantees of access to an independent and impartial tribunal previously established by law, and in particular those which determine what constitutes a tribunal and how it is composed, represent the cornerstone of the right to a fair trial. That right means that every court is obliged to check whether, as composed, it constitutes such a tribunal where a serious doubt arises on that point. That check is necessary for the confidence which the courts in a democratic society must inspire in those subject to their jurisdiction. In that respect, such a check is an essential procedural requirement, compliance with which is a matter of public policy and must be verified of the court's own motion (see, to that effect, judgment of 1 July 2008, *Chronopost and La Poste v UFEX and Others*, C-341/06 P and C-342/06 P, EU:C:2008:375, paragraphs 46 and 48).
- 58 Consequently, the General Court did not err in deciding, in the judgments under review, to examine of its own motion the regularity of the composition of the panel of judges that had delivered the contested decisions in so far as the irregularity of that panel of judges had been established in the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22).

The irregularity in the appointment procedure at issue and its effect on the parties' right to a tribunal previously established by law

The irregularity in the appointment procedure at issue

- 59 In the judgments under review, the General Court, referring to the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), concluded that the Council had failed to comply with the legal framework imposed by the public call for applications of 3 December 2013 by using the list of candidates drawn up as a result of that call for applications to fill the third post.
- 60 There is no error of law in that conclusion.

- 61 In so far as, according to paragraph 4 of the public call for applications of 3 December 2013, it was explicitly and exclusively launched with a view to filling the posts of the two judges whose term of office was due to expire on 30 September 2014, namely those held by Judges Van Raepenbusch and Kreppel, and not with a view also to filling the third post, previously held by Judge Rofes i Pujol whose term of office was to expire on 31 August 2015, the Council, in making the appointment to the latter post from the list of candidates drawn up as a result of that public call for applications, disregarded the legal framework which it had itself laid down when it published that public call for applications and with which it was obliged to comply. The ‘reasons of timing’ referred to in recital 4 of Decision 2016/454 in the context of the reform of the judicial architecture of the European Union do not justify the failure to comply with that public call for applications.
- 62 However, contrary to the General Court’s findings in paragraphs 52 to 58 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), findings which were, moreover, not expressly reproduced in the judgments under review, the use of that list for the purpose of making the appointment to the third post appears otherwise to have accorded with the rules governing the procedure for the appointment of judges to the Civil Service Tribunal.
- 63 In accordance with the third sentence of Article 3(4) of Annex I to the Statute of the Court of Justice of the European Union, the list of candidates was required to contain the names of at least twice as many candidates as there were judges to be appointed by the Council. The list drawn up following the public call for applications of 3 December 2013 contained the names of six candidates, which is twice as many as the number of judges appointed on the basis of that list. That provision was therefore fully complied with in the present case.
- 64 In addition, there is nothing to cast doubt on whether any of the following were complied with: the first sentence of the fourth paragraph of Article 257 TFEU, requiring the members of the specialised courts to be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; the first sentence of Article 3(2) of Annex I to the Statute of the Court of Justice of the European Union, under which any person who fulfilled those conditions and who was a Union citizen could submit an application for the post of judge at the Civil Service Tribunal; or the second sentence of Article 3(4) of that annex, under which the list drawn up by the Selection Committee was required to indicate the candidates having the most suitable high-level experience.
- 65 Thus, no doubt at all has been cast on the fact that the public call for applications of 3 December 2013 was open to any Union citizen fulfilling the conditions referred to in the first sentence of the fourth paragraph of Article 257 TFEU; that all six candidates included on the list drawn up following that public call for applications were Union citizens and had been judged by the Selection Committee to be qualified to perform the duties of judge at the Civil Service Tribunal; or that that list did indeed indicate the candidates having the most suitable high-level experience.
- 66 As regards the second sentence of Article 3(1) of Annex I to the Statute of the Court of Justice of the European Union, according to which the Council is, when appointing judges to the Civil Service Tribunal, to ensure a balanced composition of that tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented, the General Court did admittedly find, in paragraph 56 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), that it could not be ruled out that the use of the list of candidates drawn up following the public call for applications of 3 December 2013 for the appointment of a judge to the third post may have had the effect of excluding some of the potential candidates for that post, in particular those of Spanish nationality who, taking into account the requirement imposed by that provision, might possibly have been deterred from taking part in that public call since the Civil Service Tribunal already had a Spanish Member at the time of the public call for applications and that member’s post was not covered by that call.

- 67 However, it certainly cannot be inferred from that finding that the appointment of the judge to the third post resulted in an unbalanced composition in terms of geographical distribution or representation of national legal systems within the Civil Service Tribunal and that the Council therefore made that appointment contrary to the second sentence of Article 3(1) of Annex I to the Statute of the Court of Justice of the European Union. Furthermore, the fact that certain potential candidates might have been discouraged from taking part in the public call for applications of 3 December 2013, which the General Court identified in paragraph 56 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), was the direct and exclusive result of the lack of any reference in that public call to filling the third post, with the result that that fact cannot be regarded as a separate irregularity from that identified in paragraph 61 of the present judgment.
- 68 It follows from the foregoing considerations that the irregularity in the appointment procedure at issue resulted exclusively from the Council's disregard for the public call for applications of 3 December 2013 and not from an infringement of the requirements under the fourth paragraph of Article 257 TFEU or Article 3 of Annex I to the Statute of the Court of Justice of the European Union.

The effect of the irregularity in the appointment procedure at issue on the parties' right to a tribunal previously established by law

- 69 In the judgments under review, the General Court, again relying on the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22), held that in the light of the importance of observing the rules governing the appointment of a judge with regard to litigants' confidence and that of the public in the independence and impartiality of courts and tribunals, the judge appointed to the third post could not be regarded as a lawful judge for the purposes of the first sentence of the second paragraph of Article 47 of the Charter.
- 70 As set out in that provision, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.
- 71 In that regard, this Court has held that the requirements that courts be independent and impartial form part of the essence of the right to effective judicial protection and the fundamental right to a fair trial, which is of cardinal importance as a guarantee that all the rights which individuals derive from EU law will be protected and that the values common to the Member States set out in Article 2 TEU, in particular the value of the rule of law, will be safeguarded. Those requirements require rules, particularly as regards the composition of the body and the appointment, length of service and grounds for abstention, rejection and dismissal of its members, in order to dispel any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality with respect to the interests before it. As regards appointment decisions specifically, it is in particular necessary for the substantive conditions and detailed procedural rules governing the adoption of those decisions to be such that they cannot give rise to such reasonable doubts with respect to the judges appointed (see, to that effect, judgment of 19 November 2019, *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraphs 120, 123 and 134 and the case-law cited).
- 72 Since the first sentence of the second paragraph of Article 47 of the Charter corresponds to the first sentence of Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('ECHR'), its meaning and scope are, in accordance with Article 52(3) of the Charter, the same as those laid down by that convention. The Court must therefore ensure that the interpretation which it gives to the second paragraph of Article 47 of the Charter safeguards a level of protection which does not fall below the level of protection established in Article 6 ECHR, as interpreted by the European Court of Human Rights (judgment of 19 November 2019, *A. K. and Others (Independence of the Disciplinary Chamber of the Supreme Court)*, C-585/18, C-624/18 and C-625/18, EU:C:2019:982, paragraph 118 and the case-law cited).

- 73 According to the settled case-law of the European Court of Human Rights, the reason for the introduction of the term ‘established by law’ in the first sentence of Article 6(1) ECHR is to ensure that the organisation of the judicial system does not depend on the discretion of the executive, but that it is regulated by law emanating from the legislature in compliance with the rules governing its jurisdiction. That phrase reflects, in particular, the principle of the rule of law and covers not only the legal basis for the very existence of a tribunal, but also the composition of the bench in each case and any other provision of domestic law which, if breached, would render the participation of one or more judges in the examination of a case irregular, including, in particular, provisions concerning the independence and impartiality of the members of the court concerned (see, to that effect, ECtHR, 8 July 2014, *Biagioli v. San Marino*, CE:ECHR:2014:0708DEC000816213, §§ 72 to 74, and ECtHR, 2 May 2019, *Pasquini v. San Marino*, CE:ECHR:2019:0502JUD005095616, §§ 100 and 101 and the case-law cited).
- 74 Likewise, the European Court of Human Rights has already had an opportunity to observe that the right to be judged by a tribunal ‘established by law’ within the meaning of Article 6(1) ECHR encompasses, by its very nature, the process of appointing judges (ECtHR, 12 March 2019, *Ástráðsson v. Iceland*, CE:ECHR:2019:0312JUD002637418, interim judgment, § 98).
- 75 It follows from the case-law cited in paragraphs 71 and 73 of the present judgment that an irregularity committed during the appointment of judges within the judicial system concerned entails an infringement of the first sentence of the second paragraph of Article 47 of the Charter, particularly when that irregularity is of such a kind and of such gravity as to create a real risk that other branches of the State, in particular the executive, could exercise undue discretion undermining the integrity of the outcome of the appointment process and thus give rise to a reasonable doubt in the minds of individuals as to the independence and the impartiality of the judge or judges concerned, which is the case when what is at issue are fundamental rules forming an integral part of the establishment and functioning of that judicial system.
- 76 It is in the light of those principles that the Court must examine whether the irregularity committed in the appointment procedure at issue resulted in this instance in an infringement of the parties’ right to a hearing by a tribunal previously established by law, as guaranteed by the first sentence of the second paragraph of Article 47 of the Charter.
- 77 It must be recalled in that regard that, as has been noted in paragraph 68 of the present judgment, that irregularity resulted exclusively from the Council’s disregard for the public call for applications of 3 December 2013.
- 78 It must also be held that the appointment of a judge to the third post complied with the fundamental rules for the appointment of judges to the Civil Service Tribunal contained in the fourth paragraph of Article 257 TFEU and Article 3 of Annex I to the Statute of the Court of Justice of the European Union.
- 79 In that context, the mere fact that the Council used the list drawn up following the public call for applications of 3 December 2013 to fill the third post is not sufficient to establish an infringement of a fundamental rule of the procedure for appointing judges to the Civil Service Tribunal that is of such a kind and of such gravity as to create a real risk that the Council made unjustified use of its powers, undermining the integrity of the outcome of the appointment process and thus giving rise to a reasonable doubt in the minds of individuals as to the independence and the impartiality of the judge appointed to the third post, or of the Chamber to which that judge was assigned.
- 80 In that respect, the irregularity in the appointment procedure at issue is distinguishable from that at issue in the decision of the EFTA Court of 14 February 2017, *Pascal Nobile v DAS Rechtsschutz-Versicherungs* (E-21/16), mentioned in paragraph 75 of the judgment of 23 January 2018, *FV v Council* (T-639/16 P, EU:T:2018:22). The latter irregularity consisted in the appointment of a

judge to the EFTA Court for, exceptionally, a three-year term of office instead of a six-year term, and thus concerned, unlike the irregularity examined in the present cases, the infringement of a fundamental rule in relation to the duration of judges' mandates at that court which was intended to protect their independence.

- 81 It follows from the foregoing that the Council's disregard for the public call for applications of 3 December 2013 does not constitute an infringement of the fundamental rules of EU law applicable to the appointment of judges to the Civil Service Tribunal that entailed an infringement of the applicants' right to a tribunal established by law, as guaranteed by the first sentence of the second paragraph of Article 47 of the Charter.
- 82 Consequently, and since the judgments under review do not contain anything else that might cast doubt on compliance with the first sentence of the second paragraph of Article 47 of the Charter, it must be held that the General Court made an error of law in ruling, in those judgments, that that provision had been infringed. The irregularity referred to in the preceding paragraph could not, therefore, by itself justify the setting aside of a judicial decision adopted by the panel of judges to which the judge appointed to the third post was assigned.
- 83 It follows from all of the above that the General Court erred in law by setting aside the contested decisions solely on the basis of the irregularity in the appointment procedure at issue.

Whether the unity or consistency of EU law are affected

- 84 The error of law vitiating the judgments under review is such as to affect the unity and consistency of EU law.
- 85 The judgments under review could constitute precedents for future cases, since the General Court's erroneous interpretation and application of the first sentence of the second paragraph of Article 47 of the Charter could have repercussions for other cases in which the appointment of a member of a panel of judges and, more generally, the right to an independent and impartial tribunal previously established by law is put in issue.
- 86 That right, moreover, is fundamental and cuts across all subject areas in the EU legal order, the interpretation and the consistency of which must be ensured by the Court of Justice, particularly when questions arise in that respect in a specific context that has not yet given rise to settled case-law of the Court.
- 87 In those circumstances, it must be held that the judgments under review affect the unity and consistency of EU law in so far as the General Court, as court of appeal, held that the composition of the panel of judges of the Civil Service Tribunal which had delivered the contested decisions had been irregular, on the basis of an irregularity affecting the procedure for the appointment of one of the members of that panel of judges, leading to a breach of the principle of the lawful judge, laid down in the first sentence of the second paragraph of Article 47 of the Charter, and set aside those decisions.

The effects of the review

- 88 The first paragraph of Article 62b of the Statute of the Court of Justice of the European Union provides that, if the Court of Justice finds that the decision of the General Court affects the unity or consistency of EU law, it is to refer the case back to the General Court which is to be bound by the points of law decided by the Court of Justice. In referring the case back, the Court of Justice may also state which of the effects of the decision of the General Court are to be considered as definitive in

respect of the parties to the litigation. By way of exception, the Court of Justice may itself give final judgment if, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the General Court was based.

- 89 It follows that the Court of Justice cannot confine itself to finding that the unity or consistency of EU law is affected without stating the implications of that finding as regards the two disputes in question (see also judgment of 10 September 2015, *Review Missir Mamachi di Lusignano v Commission*, C-417/14 RX-II, EU:C:2015:588, paragraph 60 and the case-law cited).
- 90 Since, in the judgments under review, the General Court set aside the contested decisions on the basis of an infringement of the first sentence of the second paragraph of Article 47 of the Charter without examining the grounds of appeal which the appellants had put forward in their respective appeals, the judgments under review must be set aside and the cases referred back to the General Court in order for it to rule on those grounds of appeal.

Costs

- 91 Under Article 195(6) of the Rules of Procedure, where the decision of the General Court which is subject to review was given under Article 256(2) TFEU, the Court of Justice is to make a decision as to costs.
- 92 Since there are no specific rules governing orders for costs in the case of a review, the parties must be ordered to bear their own costs.

On those grounds, the Court (Grand Chamber) hereby:

1. **Orders that Cases C-542/18 RX-II and C-543/18 RX-II be joined for the purposes of the judgment;**
2. **Declares that the judgments of the General Court of the European Union (Appeal Chamber) of 19 July 2018, *Simpson v Council* (T-646/16 P, not published, EU:T:2018:493) and *HG v Commission* (T-693/16 P, not published, EU:T:2018:492) affect the unity and consistency of EU law in so far as the General Court, as court of appeal, held that the composition of the panel of judges of the European Union Civil Service Tribunal which had delivered the order of 24 June 2016, *Simpson v Council* (F-142/11 RENV, EU:F:2016:136) and the judgment of 19 July 2016, *HG v Commission* (F-149/15, EU:F:2016:155), respectively, had been irregular, on the basis of an irregularity affecting the procedure for the appointment of one of the members of that panel of judges, leading to a breach of the principle of the lawful judge, laid down in the first sentence of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, and set aside those decisions;**
3. **Sets aside those judgments;**
4. **Refers the cases back to the General Court of the European Union;**
5. **Orders Mr Erik Simpson, the Council of the European Union, HG, the European Commission and the Bulgarian Government to bear their own costs in relation to the review proceedings.**

Lenaerts

Silva de Lapuerta

Prechal

Vilaras

Regan

Safjan

Rodin

Jarukaitis

Ilešič

Toader

Šváby

Biltgen

Piçarra

Delivered in open court in Luxembourg on 26 March 2020.

A. Calot Escobar
Registrar

K. Lenaerts
President