

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