



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 26 January 2017 — *Diktyo Amyntikon Viomichanion Net v Commission*

(Case T-703/14)

(Arbitration clause — ‘Firerob’ contract concluded in the context of the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) — Eligible costs — Request for reimbursement of the amounts paid to the applicant — Delegation of power — Admissibility — Abuse of contractual rights — Legitimate expectations — Proportionality)

1. *Actions for annulment — Natural or legal persons — Interest in bringing proceedings — Need for an actual and current interest*

(Art. 263 TFEU)

(see para. 36)

2. *Judicial proceedings — General Court seised under an arbitration clause — Capacity to be a defendant — Agreement concluded with the Commission in the context of a framework programme subsequently managed by the Research Executive Agency (REA) — No subrogation of the REA to the rights and obligations of the Commission — Action directed against the Commission — Admissibility*

(Art. 272 TFEU; Council Regulation No 58/2003, Arts 4 and 21(1); Commission Decisions 2008/46, Art. 4(1), and 2013/778, Arts 1 and 7(1))

(see paras 43-45, 55, 57, 63, 64, 68, 72)

3. *EU budget — EU financial assistance — Obligation on the beneficiary to comply with the conditions for grant of the assistance — Justification of costs incurred — Proceedings by the Commission for recovery of advances paid — Burden of proof*

(Art. 272 TFEU)

(see para. 84)

4. *EU budget — EU financial assistance — Obligation on the beneficiary to comply with the conditions for grant of the assistance — Financing covering only expenses actually incurred — Demonstration that the expenses actually incurred — None — Ineligible expenses — Proper technical implementation of projects forming the subject-matter of EU financial assistance — Irrelevant*

(Art. 317 TFEU)

(see para. 115)

5. *Judicial proceedings — Measures of inquiry — Expert’s report — Discretion of the General Court*

(Rules of Procedure of the General Court, Arts 88 and 91(e))

(see paras 125, 126)

6. *EU law — Principles — Protection of legitimate expectations — Conditions — Specific assurances given by the authorities*

(see para. 146)

7. *Judicial proceedings — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based*

(Statute of the Court of Justice, Art. 21, first para.; Rules of Procedure of the General Court, Art. 44(1)(c))

(see para. 159)

Re:

APPLICATION based on Article 272 TFEU and seeking, first, a declaration by the Court that the Commission failed to fulfil its contractual obligations by issuing Debit Note No 3 241 409 008 of 25 July 2014 and that the costs declared by the applicant in the context of Contract FP7-SME-2007-222303, relating to the realisation of Project ‘FIREROB — Autonomous Fire-Fighting Robotic Vehicle’, are eligible and, second, an order for the Commission to issue a credit note for an amount of EUR 64 574.73.

Operative part

The Court:

1. Dismisses the objection of inadmissibility;
2. Finds that there is no need to adjudicate on the present action in so far as it concerns a request for reimbursement of an amount exceeding EUR 37 247.05, plus interest starting from 9 September 2014;

3. Declares that the European Commission has failed to fulfil its obligations arising from Contract FP7-SME-2007-222303, relating to the realisation of Project 'FIREROB — Autonomous Fire-Fighting Robotic Vehicle', by asking Diktyo Amyntikon Viomichanion Net A EVE to repay an amount exceeding EUR 9 007, plus interest starting from 9 September 2014;
4. Dismisses the action as to the remainder;
5. Orders the Commission to bear three quarters of its own costs and to pay three quarters of the costs incurred by Diktyo Amyntikon Viomichanion Net, including those relating to the proceedings for interim measures;
6. Orders Diktyo Amyntikon Viomichanion Net to bear one quarter of its own costs and to pay one quarter of the costs incurred by the Commission, including those relating to the proceedings for interim measures.