



Reports of Cases

Judgment of the General Court (Sixth Chamber) of 14 September 2017 — *Università del Salento v Commission*

(Case T-393/15)

(Arbitration clause — General Programme ‘Fundamental Rights and Justice’ — Specific programme ‘Criminal Justice’ — Recovery of sums paid by the Commission under a grant agreement — Set-off of amounts owed — Partial reclassification of the action — Application for a declaration of no contractual claim)

1. *Judicial proceedings — General Court seised under an arbitration clause — Subsidy agreements concluded in the context of a specific programme in the area of fundamental rights and justice — Decision for extra-judicial set-off between debts and claims adopted by the Commission on the basis of Regulation No 1605/2002 — Application for annulment of that decision and a declaration that the said claims non-existent — Partial reclassification of the annulment action as an action concerning a contractual dispute — Conditions*

(Arts 263 TFEU and 272 TFEU; Rules of Procedure of the General Court, Art. 76(d); Council Regulation No 1605/2002)

(see paras 26-29, 31-34)

2. *Judicial proceedings — Legal basis of an action — Choice for the applicant and not the EU judicature*

(see para. 30)

3. *Actions for annulment — Jurisdiction of the EU judicature — Claim for a declaratory judgment — Inadmissibility*

(Art. 263 TFEU)

(see para. 68)

4. *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 — Unambiguous wording of the form of order sought by the applicant*

(Statute of the Court of Justice, Art. 21; Rules of Procedure of the General Court, Art. 76(d) and (e))

(see paras 74-77)

5. *Commission — Powers — Implementation of the EU budget — Recovery of claims by set-off — Conditions — No set-off claims linked to the same project — No prior obligation to ensure use of the funds concerned for the purposes envisaged and the realisation of the actions justifying attribution of those funds despite the set-off envisaged*

(see paras 107, 108)

6. *Acts of the institutions — Statement of reasons — Obligation — Scope — Decision taken in a context known to the addressee*

(Art. 296 TFEU)

(see para. 112)

Re:

First, application under Article 263 TFEU seeking (i) annulment of Commission Decision D/C4 — B.2 — 005817 of 4 May 2015, by which the applicant's claim in respect of the implementation of a contract in a first project, Entice (Explaining the Nature of Technological Innovation in Chinese Enterprises), was set off against the applicant's debt in respect of the implementation of a contract in a second project, entitled 'Judicial Training and Research on EU crimes against environment and maritime pollution'; (ii) annulment of all other measures, preliminary to, consecutive to or, in any event, connected with that decision; and (iii) an order requiring the Commission to pay to the applicant the amounts owed to it for the implementation of the Entice project; and, secondly, application under Article 272 TFEU seeking a declaration that the debt claimed by the Commission in respect of the implementation of the second project is non-existent.

Operative part

The Court:

1. Dismisses the action;
2. Orders Università del Salento to pay the costs.