

With regard to the factors for calculation of her pension, the applicant also contests the Commission's practice of taking the view that the transfer of a member of the temporary staff covered by Article 2(f) of the CEOS to another EU agency entails the conclusion of a new contract, separate from the previous contract, which shows a discontinuity in the career of that member of the temporary staff and therefore entails the application of the new rules under the Staff Regulations concerning retirement pensions.

Action brought on 2 March 2017 — Argus Security Projects v Commission and EEAS

(Case T-131/17)

(2017/C 129/42)

Language of the case: French

Parties

Applicant: Argus Security Projects Ltd (Limassol, Cyprus) (represented by: T. Bontinck and A. Guillerme, lawyers)

Defendants: European Commission, European External Action Service

Form of order sought

The applicant claims that the Court should:

- annul the set-off decision of the Commission in the sum of EUR 52 600, contained in its letter of 13 February 2017;
- annul the set-off decision of the Commission, acting on behalf of the EEAS accounting officer, in the sum of EUR 41 522, contained in its letter of 15 February 2017;
- annul the set-off decision of the Commission, acting on behalf of the EEAS accounting officer, in the sum of EUR 6 324, contained in its letter of 28 February 2017;
- order the European Commission and the EEAS to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging infringement of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'). The applicant claims that the adoption of the contested unilateral set-off decisions within a contractual context, where the other party to the contract brought an action for breach of contract before the court having jurisdiction as designated by the contract, must be regarded as unlawful and contrary to Article 47 of the Charter.
 2. Second plea in law, alleging that the European Commission and the European External Action Service (EEAS) lack authority to adopt the set-off decisions within a contractual context. The defendants exceeded their powers by using unilateral powers in order to bring a contractual dispute to an end, and the contested decisions should therefore be annulled on the ground that the adopting institution had no power to issue them.
 3. Third plea in law, alleging infringement of Article 80 of Regulation No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union ('the Financial Regulation'). The applicant submits that, since the proceedings before the Belgian court are still pending, the Commission's accounting officer could not lawfully treat the debt at issue as certain, of a fixed amount and due. The Commission therefore did not satisfy the conditions laid down in Article 80 of the Financial Regulation and thus could not be compensated.
-