



## Reports of Cases

### Judgment of the General Court (Sixth Chamber) of 10 April 2013 — GRP Security v Court of Auditors

(Case T-87/11)

(Arbitration clause — Public service contracts — Surveillance and security services for the buildings of the Court of Auditors — Action for annulment — Decision unilaterally to terminate the contract with application for payment of damages and interest — Measure of a contractual nature — Action not reclassified — Inadmissibility — Decision to impose a penalty of exclusion for three months — Interest in bringing proceedings — Rights of defence — Serious breach of obligations — Principle that penalties must have a proper legal basis — Misuse of powers — Proportionality)

1. *Actions for annulment — Action relating in reality to a contractual dispute — Reclassification of the action — Conditions (Arts 263 TFEU, 272 TFEU and 288 TFEU; Rules of Procedure of the General Court, Art. 44(1)(c)) (see paras 29-32)*
2. *Judicial proceedings — Application initiating proceedings — Formal requirements — Identification of the subject matter of the dispute — Application modifying the subject matter of the dispute formulated for the first time in the reply — Applicant applying to reclassify the legal basis of the action — Inadmissibility (Arts 263 TFEU and 272 TFEU; Rules of Procedure of the General Court, Arts 44(1)(c), and 48(2)) (see paras 34, 37)*
3. *Actions for annulment — Community law — Interest in bringing proceedings — To be considered of the Court's own motion (Art. 263 TFEU; Rules of Procedure of the General Court, Art. 113) (see para. 43)*
4. *Actions for annulment — Interest in bringing proceedings — Need for an actual and current interest — Assessment at the time the action brought — Contested decision lapsing after the bringing of the action — No effect — Basis of a possible action for compensation — Interest in bringing proceedings maintained (Art. 263 TFEU) (see paras 44-47)*
5. *EU public contracts — Tender procedure — Award of contracts — Exclusion of contractors seriously in default of their obligations — Discretion of the awarding authority concerning the failure in question and the penalty imposed (Council Regulation No 1605/2002, Art. 96(1)(b); Commission Regulation No 2342/2002, Arts 133(1), and 134b) (see paras 61, 78-80)*

6. *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 — Action for compensation for damage caused by an EU institution — General formula reserving to the applicant the possibility of bringing further actions — Inadmissibility (Statute of the Court of Justice, Arts 21, first para., and 53, first para.; Rules of Procedure of the General Court, Art. 44(1)(c)) (see paras 88, 89)*

**Re:**

First, application for annulment of the decision of the Court of Auditors of 14 January 2011 to unilaterally terminate the framework service contract ‘Various security services’ (LOG/2026/10/02) and to apply for payment of damages and interest and, secondly, application for annulment of the decision of 14 January 2011 to impose a penalty of exclusion.

**Operative part**

The Court:

1. Dismisses the action;
2. Orders GRP Security to pay the costs, including those relating to the applications for interim measures.