

Case T-387/00

Comitato organizzatore del convegno internazionale ‘Effetti degli inquinamenti atmosferici sul clima e sulla vegetazione’

v

Commission of the European Communities

(Action for annulment — Application concerning in fact a contractual dispute — Lack of jurisdiction of the Community judicature — Inadmissibility)

Order of the Court of First Instance (Fourth Chamber), 10 July 2002 . . . II-3033

Summary of the Order

1. *Procedure — Procedure before the Court of First Instance — Reassignment to the Court sitting in plenary session or to a Chamber composed of a different number of Judges — Designation of an Advocate General — Criteria*
(*Rules of Procedure of the Court of First Instance, Arts 14, 18, 19 and 51*)

2. *Actions for annulment — Application concerning, in reality, a contractual dispute — Lack of jurisdiction of the Community judicature — Inadmissible*
(Arts 230, fourth para., EC, 240 EC and 249 EC)

1. Articles 14, 18, 19 and 51 of the Rules of Procedure of the Court of First Instance give the Chamber hearing a case the right to request the Court of First Instance sitting in plenary session to refer the case either to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges and to designate an Advocate General. That is a right and not an obligation, and its exercise is subject to the criteria specified in the Rules of Procedure; these are, for referral to the Court of First Instance sitting in plenary session or to a Chamber composed of a different number of Judges, the legal difficulty or the importance of the case or special circumstances and, for the designation of an Advocate General, the legal difficulty or the factual complexity of the case.

(see para. 22)

the Court of First Instance manifestly lacks jurisdiction to hear and determine an application which, although based on the fourth paragraph of Article 230 EC, must in fact be regarded as an action resting on a contractual basis. If that were not the case, the Court would be extending its jurisdiction beyond the disputes which it has jurisdiction to determine under Article 240 EC, since that article confers on national courts or tribunals ordinary jurisdiction over disputes to which the Community is a party. Moreover, where the dispute concerns a claim of the Commission for repayment of an advance on the ground that the other party has allegedly failed to fulfil its contractual obligations, the contested measure forms part of a contractual framework from which it is not separable and it is not, therefore, one of the decisions referred to by Article 249 EC, actions for the annulment of which fall within the exclusive jurisdiction of the Community court under the fourth paragraph of Article 230 EC.

2. In the absence of an arbitration clause within the meaning of Article 238 EC,

(see paras 37, 39, 41)