

Case T-265/03

Helm Düngemittel GmbH

v

Commission of the European Communities

(Food aid — Partial seizure of the delivery guarantee — Request for repayment of the sum seized — Arbitration clause — Action for annulment — Inadmissibility)

Order of the Court of First Instance (Third Chamber), 9 June 2005 II - 2011

Summary of the Order

1. *Actions for annulment — Application concerning, in reality, a contractual dispute — Measure adopted on the basis of a regulation and not pursuant to a contract — No effect on the contractual nature of the dispute — Lack of jurisdiction of the Community Courts — Inadmissible*

(Arts 225 EC, 230 EC, 238 EC, 240 EC and 249 EC)

2. *Actions for annulment — Action directed against a decision which merely confirms a previous decision — Inadmissible*
(Art. 230 EC)

1. Measures adopted by the institutions within a purely contractual framework, from which they cannot be separated, are not, by their very nature, measures referred to by Article 249 EC, which the Community Courts can be requested to annul under Article 230 EC. The contractual nature of a dispute cannot be denied solely on the ground that the contested measure was adopted on the basis of a regulation and not by virtue of a contract, where the terms of the regulation form part of the contractual provisions binding the parties to the dispute.

Court would be extending its jurisdiction beyond the limits placed by Article 240 EC on the disputes of which it may take cognisance, since that article leaves to national courts or tribunals ordinary jurisdiction over the other disputes to which the Community is a party.

(see paras 39-40, 53, 58)

Under the combined provisions of Article 225 EC and Article 238 EC, the Court of First Instance does not have jurisdiction to give judgment in disputes relating to contractual matters brought before it by natural or legal persons unless there is an arbitration clause to that effect. If it were otherwise, the

2. A decision which merely confirms a previous decision is not open to challenge under Article 230 EC and any action directed against such a decision is accordingly inadmissible.

(see para. 62)