

## Case T-81/95

**Interhotel**

**v**

**Commission of the European Communities**

(Social policy — European Social Fund — Assistance for the financing of vocational training measures — Action for annulment — Notification of decision of approval — Decision on the final payment claim — Legal certainty — Legitimate expectations — Statement of reasons)

Judgment of the Court of First Instance (First Chamber), 14 July 1997 ..... II - 1268

### Summary of the Judgment

1. *Social policy — European Social Fund — Assistance for the financing of vocational training measures — Decision to reduce assistance initially granted — Reduction made because of non-approval, of which the applicant was not notified, of certain expenditure provided for in the application for assistance — Breach of the principle of the protection of legitimate expectations — Reductions made because costs not provided for in the application for assistance and supporting documentation lacking — Breach of the principle of legal certainty — None (Council Regulation No 2950/83, Art. 6(1))*

2. *Actions for annulment — Judgment annulling a measure — Effects — Adoption of measures to comply with it — Reasonable time-limit — Replacement, by a new decision, of an annulled Commission decision reducing assistance from the European Social Fund granted for vocational training measures*

(EC Treaty, Art. 176)

3. *Procedure — Costs — Costs which one party causes another to incur vexatiously — Lack of diligence on the part of the Commission in dealing with a case concerning assistance granted from the European Social Fund*

(Rules of Procedure of the Court of First Instance, second subpara. of Article 87(3))

1. Provided that the reality of the training measures at issue and their link with certain expenditure are demonstrated by supporting documents, it is contrary to the principle of the protection of legitimate expectations for the Commission, when examining a final payment claim in respect of financial assistance from the European Social Fund, to reject an application where that expenditure was provided for in the application for assistance but allegedly was not approved in the decision of approval, which contained only a succinct summary of the eligible expenses and was not notified to the beneficiary.

It is irrelevant that the Community rules do not require the details of the decision of approval to be communicated to the person concerned since the information relating to the headings of the application for assistance which were refused or subjected to a reduction is nevertheless, in fact, necessary for that person to be able to comply with the conditions under which the assistance was granted.

On the other hand, as regards the reductions made by the Commission on the grounds that the costs in question were either not provided for in the application for assistance or were not documented, the principle of legal certainty, by virtue of which Community rules must enable the person concerned to ascertain unequivocally what his rights and obligations are and to take steps accordingly, is not contravened where the Community rules clearly provide for the possibility of financial assistance being recovered in cases where the conditions to which its payment was subject, such as the requirement that the cost should have been provided for and duly documented, have not been fulfilled.

2. The question whether the period between delivery of a judgment by the Community judicature and its implementation by the Community institution from which the measure emanated was reasonable must be assessed in each individual case.

A delay of 38 months between delivery of the judgment annulling a Commission

decision reducing assistance from the European Social Fund for vocational training measures and the adoption of the decision replacing it, although long, cannot be regarded as unreasonable since it was necessary to re-examine all the information available at the time of adoption of the measure and to reconstitute the file. That task involved the organization of an inspection visit to the Member State, visits to sub-contractors, analysis of the information gathered and several consultations with the national authorities.

In any event, a delay in the conduct of the procedure for implementation of a judgment is not, in itself, of a nature such as to affect the validity of the measure which is the outcome of that procedure: if that measure were annulled merely because of its belatedness, it would be impossible to adopt a valid measure since

the measure intended to replace the annulled measure could be no less belated than the latter.

3. It is appropriate to apply the second indent of Article 87(3) of the Rules of Procedure of the Court of First Instance and to order the Commission, even if partially successful, to bear all the costs in circumstances where that institution, by reason of the fact that, when called on to adopt a decision on the payment of the balance of financial assistance granted from the European Social Fund, it left the applicant for a long period in a state of uncertainty as regards its right to obtain in its entirety the financial assistance which had been granted to it, must be regarded as having contributed, by its conduct, towards creating the conditions for the dispute to arise.