

Case T-372/02

Internationaler Hilfsfonds eV

v

Commission of the European Communities

(Development cooperation — European Community Humanitarian Office (ECHO) — Framework partnership agreement for the co-financing of operations carried out by NGOs — Rejection of an application — Action for annulment — Inadmissible)

Order of the Court of First Instance (Fifth Chamber), 15 October 2003 . . . II-4392

Summary of the Order

1. *Actions for annulment — Action challenging a decision confirming a decision not challenged within the time-limit — Inadmissible — Concept of confirmatory decision (Art. 230 EC)*

2. *Actions for annulment — Jurisdiction of the Community judicature — Claims seeking the issue of directions to an institution — Inadmissible*
(Arts 230 EC and 233 EC)
3. *Procedure — Costs — Taxation — Recoverable costs — Concept — Matters to be taken into consideration — Costs relating to procedures before the European Ombudsman — Not included*
(Rules of Procedure of the Court of First Instance, Art. 91(b))

1. An action for annulment brought against a decision which merely confirms an earlier decision not challenged in due time is inadmissible. A decision is a mere confirmation of an earlier decision where it contains no new factors as compared with the earlier measure and is not preceded by any re-examination of the situation of the person to whom the earlier measure was addressed.

staff of the institution responsible for a decision, extend the time-limit for bringing an action for annulment of that decision.

(see paras 36, 41-42)

2. The Court may not issue directions to the Community institutions or assume the role assigned to them.

In this connection, the Commission's refusal, in a decision rejecting an application by a non-governmental organisation to sign a framework partnership agreement with the European Community Humanitarian Office, to initiate disciplinary proceedings against members of the institution's staff cannot constitute a new factor. That refusal is clearly separate from the decision to reject the application to sign the framework partnership agreement. To adopt a contrary approach would be tantamount to accepting that an undertaking could, by simply requesting that disciplinary proceedings be pursued against members of

In an action for annulment founded on Article 230 EC, the jurisdiction of the Community judicature is limited to reviewing the legality of the contested measure. If it concludes that the measure is unlawful, it annuls it. It is then for the institution concerned to adopt, in accordance with Article 233 EC, the necessary measures to comply with the judgment annulling that measure.

(see paras 48-49)

3. Under Article 91(b) of the Rules of Procedure of the Court of First Instance, 'expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers' are to be regarded as recoverable costs. It follows from that provision that recoverable costs are limited to expenses which have been incurred for the purpose of the proceedings before the Court of First Instance and were necessary for that purpose. By

'proceedings' the provision refers only to proceedings before the Court of First Instance. Applicants therefore cannot in any event obtain, in an action for annulment, reimbursement by the Commission of the costs relating to procedures before the European Ombudsman.

(see para. 51)