Summary of the Order

Applications for interim measures — Suspension of operation — Interim measures — Conditions for granting — Urgency — Serious and irreparable harm — Balancing of all of the interests in issue — Operation and economic and financial stability of Community undertakings

(Art 242 EC and 243 EC; Rules of Procedure of the Court, Art. 83(2))
In order to establish the need to adopt interim measures and to determine their scope, it is necessary to balance the interests in issue, since the threat of serious and irreparable harm, which is the criterion for the alleged urgency, is one of the terms of the comparison made in this connection.

In this regard, harm caused to the protection of the environment and to health is generally irreversible since, more often than not, damage to such interests cannot, by reason of its nature, be eliminated retroactively.

However, in the case of a national regulation introducing a sectoral ban on motorway driving, with a view to reducing emissions linked to human activities and thus improving air quality, a structural approach over the medium term in regard to ambient air quality would not be jeopardised by the temporary non-application of that regulation.

By contrast, such a ban on driving could affect significantly the operation and economic and financial stability of many Community undertakings. Such harm would not be limited to the aggregation of adverse financial consequences for the various undertakings. As there is evidence of a significant risk that the ban on driving could force many undertakings to close permanently and that a structural and, to a certain extent, irreversible change in conditions of transport and trade flows of goods within and across the area in question could occur, the risk of serious and irreparable damage is in those circumstances sufficiently established.

(see paras 90-92, 97, 101-102)