

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE
9 August 2001

Case T-120/01 R

Carlo De Nicola
v
European Investment Bank

(Procedure for interim relief – Suspension from duties – Prima facie case –
Urgency – None)

Full text in Italian II - 783

Application for: suspension of the operation of a number of measures
adopted by the EIB concerning the applicant.

Held: The application for interim relief is dismissed. The costs
are reserved.

Summary

1. *Applications for interim relief – Suspension of operation of measures – Provisional measures – Conditions for granting – Urgency – A prima facie case – Cumulative nature – Discretion of the judge hearing applications for interim relief*

(Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2))

2. *Officials – Organisation of departments – Assignment of staff – Administration's discretion – Extent – Staff of the European Investment Bank (Staff Regulations, Art. 7)*

3. *Applications for interim relief – Suspension of operation of measures – Conditions for granting – Urgency – Circumstances in which non-material damage cannot be remedied more satisfactorily by means of interim relief than by a ruling on the substance – None*

(Art. 242 EC; Rules of Procedure of the Court of First Instance, Art. 104(2))

1. Article 104(2) of the Rules of Procedure of the Court of First Instance provides that applications for interim measures must state the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* case for the interim measures applied for. Those conditions are cumulative, so that an application for such measures must be dismissed if one of them is lacking.

In the context of that general examination, the judge hearing the application for interim relief has a wide discretion, and is free to determine, having regard to the specific circumstances of the case, the manner and order in which those various conditions are to be examined, there being no rule of Community law imposing a pre-established scheme of analysis within which the need to order interim measures must be analysed and assessed.

(see paras 12-13)

See: C-363/98 P (R) *Emesa Sugar v Commission* [1998] ECR I-8787, para. 50; T-211/98 R *Willeme v Commission* [1999] ECR-SC I-A-15 and II-57, para. 18

2. There is nothing to justify excluding the European Investment Bank from application of the principle that the institutions enjoy a broad discretion to organise their departments to suit the tasks entrusted to them and to assign the staff available to them in the light of such tasks, on condition, however, that the staff are assigned in the interests of the service and in conformity with the principle that assignment must be to an equivalent post.

(see para. 28)

See: 110/75 *Mills v EIB* [1976] ECR 955, para. 13; T-80/92 *Turner v Commission* [1993] ECR II-1465, para. 53; T-192/99 *Dunnett and Others v EIB* [2001] ECR II-813, ECR-SC I-A-65 and II-313, para. 54

3. The purpose of the procedure for interim relief is not to ensure that the damage is made good but to ensure that the judgment on the substance of the case takes full effect. For the purpose of attaining that objective, the relief sought must be urgent, meaning that, in order to avoid serious and irreparable harm to the appellant's interests, it must be ordered and produce its effects before a decision is reached in the main action.

(see para. 41)

See: C-65/99 P (R) *Willeme v Commission* [1999] ECR I-1857, para. 62; T-173/99 R *Elkaim and Mazuel v Commission* [1999] ECR-SC I-A-155 and II-811, para. 25