

Case C-278/00 R

Hellenic Republic

v

Commission of the European Communities

(Application for interim measures — Suspension of operation — State aid)

Order of the President of the Court, 12 October 2000 I-8789

Summary of the Order

1. *Applications for interim measures — Suspension of operation of a measure — Interim relief — Conditions for granting — Serious and irreparable damage — Burden of proof — Commission decision ordering recovery of State aid — Adverse effect on the rights of the recipients*
(Art. 242 EC)
2. *Applications for interim measures — Conditions governing admissibility — Application — Procedural requirements — Statement of pleas in law establishing a prima facie case for the measures sought*
(Rules of Procedure of the Court, Art. 83(2))

1. In so far as concerns the urgency of an application for suspension of operation of a measure, it is for the party who pleads serious and irreparable damage to prove its existence. Although it is true that, in order to establish the existence of such damage, it is not necessary to require absolute proof that the damage would occur and is enough for it to be reasonably foreseeable, the fact remains that a party applying for interim relief is still required to prove the facts which are deemed to attest to the probability of serious and irreparable damage. That requirement is not fulfilled where that party merely makes general observations, without adducing any specific evidence in support of its claims.

An adverse effect on the rights of the persons considered to be the recipients of State aid which is incompatible with the common market forms an integral part of any Commission decision requiring the recovery of such aid and cannot be regarded as constituting in itself serious and irreparable damage, whether or not a specific assessment is made of the seriousness and irrepar-

ability of the precise prejudice alleged in each case considered.

(see paras 14–16, 21)

2. An application for suspension of operation of a measure which simply refers to the action for annulment in the main proceedings and states that that action will probably succeed does not satisfy the requirements of Article 83(2) of the Court's Rules of Procedure, under which such an application must state, in particular, the pleas of fact and law establishing a prima facie case for the suspension it is seeking. A mere reference to the application for annulment cannot compensate for the total lack of clarification of the reasons for the application for annulment which establish the prima facie validity of the application for suspension of operation.

(see paras 25–27)