

## Case T-84/96 R

**Cipeke — Comércio e Indústria de Papel, Ld.<sup>a</sup>**

**v**

**Commission of the European Communities**

(Social policy — European Social Fund — Decision ordering partial reimbursement of assistance for a vocational training programme — Interim measures — Application for suspension of operation — Urgency — No urgency)

Order of the President of the Court of First Instance, 8 October 1996 ..... II - 1315

### Summary of the Order

*Applications for interim measures — Suspension of operation — Suspension of operation of a decision requiring an undertaking to repay Community assistance improperly received — Conditions for granting — Risk of harm in the event of delay — Concept — Burden of proof (EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(2))*

The risk of harm incurred by an undertaking in the event of delay, capable of justifying the suspension of operation of a decision requiring that undertaking to repay Community assistance improperly received exists only where performance of that obligation,

even if done by the provision of a bank guarantee, would jeopardize the existence of the undertaking in question. It is for the undertaking to show that this is the case.

Such evidence is not provided by the production of tax returns and trading accounts

showing losses over several consecutive financial years. Tax returns and trading accounts are accounting documents which give a static picture of the state of the undertaking, and which, particularly in the absence of any reference whatever to its market position, are not sufficient to give an exhaustive description of its real economic situation and, in particular, its inability to secure bank credit.