

Case T-6/95 R

Cantine dei colli Berici coop. arl v Commission of the European Communities

(Agriculture — Common organization of the market in wine —
System of compulsory distillation — Procedure for interim relief —
Suspension of operation of a measure —
Person directly and individually concerned by a regulation —
Manifest inadmissibility — Financial damage)

Order of the President of the Court of First Instance, 15 March 1995 II - 649

Summary of the Order

1. *Applications for interim measures — Conditions for admissibility — Admissibility of the main application — Not relevant — Limits*
(EC Treaty, Arts 185 and 186; Rules of Procedure of the Court of First Instance, Art. 104(2))
2. *Applications for interim measures — Amendment of a claim in the course of the proceedings — Enlargement of the scope of the measure applied for — Not permissible*

3. *Applications for interim measures — Conditions for admissibility — Suspension of operation of a measure — Claim to prolong a measure granting extension whose annulment is sought in the main proceedings*
(EC Treaty, Art. 185)

4. *Applications for interim measures — Suspension of operation of a measure — Conditions for granting — Serious and irreparable damage — Financial damage*
(EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(2))

1. Although the issue of the admissibility of the main application should not, in principle, be examined in proceedings relating to an application for interim measures, so as not to prejudge the substance of the case, none the less, if the manifest inadmissibility of the main action is pleaded, it is for the judge hearing the application for interim measures to establish that the main application reveals *prima facie* grounds for concluding that there is a certain probability that it is admissible.
2. The judge hearing the application for interim measures cannot grant a request by the applicant in the course of the proceedings which, although ostensibly seeking to restrict the subject-matter of the claim, seeks in fact to extend the scope of the measure initially sought.
3. An application for an interim measure is in principle admissible only if it falls within the scope of the final decision which the Court is capable of making. That is not the case where an application for suspension seeks to prolong a measure granting extension that is itself the subject-matter of the main action for annulment.
4. The requirement for granting suspension that there should be a risk of serious and irreparable damage is not satisfied where the applicant undertaking merely alleges purely financial damage without producing any *prima facie* evidence that the damage would be such as to threaten its survival and could not therefore be fully compensated for in the event of the main action succeeding.