

Case T-319/05

Swiss Confederation

v

Commission of the European Communities

(Intervention — External relations — Agreement between the European Community and the Swiss Confederation on air transport — Action for annulment brought by a non-Member State)

Order of the Court of First Instance (First Chamber), 7 July 2006 II - 2075

Summary of the Order

1. *Procedure — Intervention — Persons having an interest (Statute of the Court of Justice, Art. 40)*
2. *Procedure — Intervention — Persons having an interest (Statute of the Court of Justice, Art. 40, para., 2)*

1. Intervention by a Member State pursuant to the first paragraph of Article 40 of the Statute of the Court of Justice does not in any way make it possible to exclude intervention by one of its local authorities or by 'any other person establishing an interest in the result of any case' pursuant to the second paragraph of that provision.

(see para. 20)

2. The second paragraph of Article 40 of the Statute of the Court of Justice enshrines the right of persons establishing an interest in the result to intervene in cases before the Court. The exceptions to that procedural right of intervention, which is an embodiment of the right to a fair hearing, must necessarily

be interpreted restrictively. Thus, a State which is not a member of the Community, such as the Swiss Confederation, cannot properly rely on the second paragraph of Article 40 of Statute of the Court of Justice, which precludes intervention by any person other than Member States and Community institutions in cases between Member States, between Community institutions or between Member States and Community institutions. That exclusion, which is set out in the second paragraph of Article 40 of the Statute of the Court of Justice and is applicable to the procedure before the Court of First Instance pursuant to the first paragraph of Article 53 of that statute, applies only to cases between Member States or Community institutions.

(see paras 21, 22)