

Case T-213/01 R

Österreichische Postsparkasse AG

v

Commission of the European Communities

(Procedure for interim relief — Competition — Access to documents —
Admissibility — Urgency — Weighing of interests)

Order of the President of the Court of First Instance, 20 December 2001 II-3965

Summary of the Order

1. *Applications for interim measures — Conditions governing admissibility — Admissibility of the main application — Irrelevant — Limits*
(Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(1))
2. *Applications for interim measures — Suspension of operation of a measure — Interim relief — Conditions for granting — Serious and irreparable damage — Standard of proof*
(Art. 242 EC)

1. The question 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. It may nevertheless be found necessary, when it is contended that the main application to which the application for interim measures relates is manifestly inadmissible, to establish whether there are any grounds for concluding *prima facie* that the main application is admissible.
2. Although, in order to establish the existence of serious and irreparable damage within the framework of an application for interim measures, it is not necessary to require absolute proof that that damage will occur and it is enough for it to be foreseeable with a sufficient degree of probability, the applicant is still required to prove the facts opening up the prospect of such serious and irreparable damage.

(see para. 42)

(see para. 67)