# ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE

23 May 2005 *

In Case T-85/05 R,

**Dimos Ano Liosion (Greece),**

**Theodora Goula, Argyris Argyropoulos, Ioannis Manis, Eleni Dalipi, Vasilis Papagrigoriou and Giorgos Fragkalexis,** resident in Ano Liosia (Greece),

represented by G. Kalavros, avocat,

applicants,

v

**Commission of the European Communities,** represented by D. Triantafyllou and L. Flynn, acting as Agents, with an address for service in Luxembourg,

defendant,

* Language of the case: Greek.

APPLICATION for suspension of the operation of Commission Decision E (2004) 5522 of 21 December 2004 concerning the grant of assistance from the Cohesion Fund to the project 'Construction of a 2nd landfill in West Attica, [first] phase, at the area of Skalistiri of the municipality of Fili', Attica (Greece),

THE PRESIDENT OF THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES

makes the following

## Order

### Facts

1 Waste management in Attica (Greece), is governed by the regional waste management plan described in Greek Law No 3164/2003 (FEK A' 176 of 2 July 2003) (hereinafter 'the regional plan'). The regional plan was drawn up pursuant to Council Directive 75/442/CEE of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32).

2 The landfill site for waste at Ano Liosia (hereinafter 'the Ano Liosia dump') has been in operation since 1950. Its current operation was endorsed by act of the Greek Government of 21 March 1997 approving the environmental conditions.

3 An appraisal of the site's operation was carried out by the firm Ernst & Young. That appraisal, dated 26 April 2004 and entitled 'Expert opinion on the solid waste management projects at the Ano Liosia site, final report' (hereinafter 'the Ernst & Young appraisal') shows that, since the year 2000, the Ano Liosia site has received an average of 5 200 tonnes of waste per day, even though a limitation had been set to the effect that it should receive only 500 tonnes of waste per day as from the sixth year of operations (Ernst & Young appraisal, p. 6).

4 In the light of that situation, the Greek Government drew up a new regional waste management plan. Among the locations considered suitable for the construction of integrated waste management installations, Greek Law No 3164/2003 mentions the Grammatiko and Polidendri sites (for north-east Attica), the Keratea and Kropia sites (for south-east Attica), and the Skalistiri sites and the Meletani-Mandra site (for west Attica).

5 It was against that background that, on 27 November 2003, the Hellenic Republic submitted to the Commission an application under Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund (OJ 1994 L 130, p. 1) for assistance from the Cohesion Fund for the construction of the first phase of the Skalistiri landfill site (hereinafter 'the co-financing application').

6 Following an environmental impact study (a study carried out by ESDKNA (General association of the municipalities and districts of the Attica region) on the environmental impact of the second landfill site for West Attica, hereinafter 'the ESDKNA study'), which had confirmed that the Skalistiri site satisfied the conditions

for conversion into a landfill site, the Greek Government, by interministerial order of 3 December 2003, approved the environmental conditions of the project for the construction, operation and decontamination of the second landfill site for Attica at Skalistiri (hereinafter 'the approval decision'), which would replace the Ano Liosia dump (hereinafter 'the Skalistiri dump').

7 The Hellenic Republic supplemented the co-financing application with additional information on 6 October, 4 November and 15 November 2004.

8 On 21 December 2004, in accordance with Regulation No 1164/94 and, in particular, with Article 10(6) thereof, the Commission adopted Decision E (2004) 5522 concerning the grant of assistance from the Cohesion Fund for the construction of the first phase of the second landfill site for West Attica on the Skalistiri site (hereinafter 'the contested Decision').

9 The contested Decision provides that the Cohesion Fund is to co-finance the project in the amount of EUR 40 008 750, that is to say, 75% of the estimated total amount.

## Procedure

10 By application lodged at the Registry of the Court of First Instance on 16 February 2005, the Municipality of Ano Liosia, on the one hand, and several natural persons resident in Ano Liosia, on the other, (hereinafter collectively 'the applicants') brought an action under Article 230 EC for annulment of the contested Decision.

11 By separate document lodged at the Registry of the Court of First Instance on 24 February 2005 in accordance with Article 104 of the Rules of Procedure of the Court of First Instance and Article 242 EC, the applicants brought the present application for interim relief seeking suspension of the operation of the contested Decision pending a ruling by the Court in the main action.

12 On 11 March 2005, the Commission submitted its written observations on the application for interim relief, in which it claimed that the Court should dismiss the application as inadmissible or, in the alternative, as unfounded.

13 By separate document lodged at the Registry of the Court of First Instance on 31 March 2005, the Commission raised, under Article 114(1) of the Rules of Procedure, a plea of inadmissibility in respect of the main action, by which it claimed that the Court should dismiss the action for annulment of the contested Decision as manifestly inadmissible and order the applicants to bear the costs.

**Law**

14 Pursuant to Articles 242 EC and 243 EC, read in conjunction with Article 225(1) EC, the Court of First Instance may, if it considers that the circumstances so require, order application of the contested act to be suspended or prescribe any necessary interim measures.

15 Article 104(2) of the Rules of Procedure provides that applications for interim measures must state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case (fumus

boni juris) for the interim measures applied for. Those conditions are cumulative, with the consequence that an application for interim measures must be dismissed if any one of those conditions is not fulfilled (order of the President of the Court of Justice in Case C-268/96 P(R) *SCK and FNK* v *Commission* [1996] ECR I-4971, paragraph 30).

16 Having regard to the documents in the case-file, the President of the Court considers that he has all the information needed to decide the present application for interim measures, without there being any need first to hear oral argument from the parties.

*Arguments of the parties*

Admissibility

17 The applicants maintain that their application for interim relief satisfies all the conditions laid down in Article 104(2) of the Rules of Procedure and that the main action is admissible. In that respect, the applicants claim that they are directly and individually concerned by the contested Decision, even though that decision was addressed to the Hellenic Republic.

18 In support of that claim, the applicants submit that the municipality of Ano Liosia belongs to a 'closed category' of 'victims' of the project to construct the Skalistiri dump and that it would suffer unique and exclusive damage. The operation of the Ano Liosia dump, which began in 1950, has already had immensely harmful

consequences; in particular, it has brought about environmental, economic and social deterioration. Specifically, the value of land within the municipality has fallen dramatically as a consequence of the operation of the Ano Liosia dump. The Ano Liosia and Skalistiri dumps prevent the upgrading of more than 15 000 ares, which could have been used in connection with various development activities. That land — which, according to the applicants, has become unusable, or will become so, as a consequence of the construction of the Skalistiri dump — includes inter alia land earmarked for a municipal park, green spaces and sports facilities.

19 According to the applicants, those amongst them who are natural persons are also directly and individually concerned by the contested Decision. Those applicants live in local authority housing situated one kilometre from the construction site for the Skalistiri dump. The applicants maintain that their way of life, which at the moment is quite tolerable and allows them to enjoy the natural environment, will be completely altered by the project in question.

20 The Commission contends that this application must be declared inadmissible because, first, it does not satisfy the conditions laid down in Article 104(2) of the Rules of Procedure, as interpreted by the case-law, and, secondly, the action for annulment of the contested Decision, to which this application is an adjunct, is itself manifestly inadmissible. As regards that second argument, the Commission takes as its basis the judgment in Case C-321/95 *Greenpeace Council and Others* v *Commission* [1998] ECR I-1651 (hereinafter '*Greenpeace*'), and asserts that the applicants are neither individually nor directly concerned, for the purposes of the fourth paragraph of Article 230 EC, by the contested Decision. More specifically, as regards the admissibility of the action in so far as it was brought by the Municipality of Ano Liosia, the Commission contends that, even if the Municipality may be regarded as individually concerned by the contested Decision, it is not directly concerned by it. According to the Commission, the contested Decision, which approves financing for a project that has already been adopted at national level, is purely financial in nature, affecting only indirectly the Municipality and the other applicants and not in itself altering their legal position.

Prima facie case

21 The applicants submit that the contested Decision runs counter to the objectives of maintaining, protecting and developing the quality of the environment, of protecting human health, and of using natural resources prudently and rationally. In consequence, it infringes not only primary Community legislation (Articles 2 EC, 4 EC and 174 EC) but also several provisions of secondary Community legislation, such as those imposing obligations on the Hellenic Republic as regards the prevention or reduction of waste production and its harmfulness, the treatment and disposal of waste in such a way as not to endanger human health or harm the environment (obligations arising under Articles 3, 4 and 6 of Directive 75/442 and Articles 3 and 4 of Directive 91/156); and those which require it to take preventive measures against pollution (Article 3 of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ 1996 L 257, p. 26)) and to prepare an environmental impact study (Article 1 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40), as amended by Council Directive 97/11/EC of 3 March 1997 (OJ 1997 L 73, p. 5)). It also infringes the legislative provisions of Greek domestic law.

22 In support of those arguments, the applicants maintain that, in practice, the Skalistiri dump will constitute an extension of the Ano Liosia dump, which is adjacent to it and has the same entrance and building installations, and which applies the same biological treatment to leakages. The Ano Liosia site — which, according to the applicants, owing to the existing dump, currently accepts at its recycling plant 1 300 tonnes of waste and 300 tonnes of untreated sludge from the biological station at Psytalleia, as well as, at its thermal treatment plant, a considerable volume of hospital waste, that is to say, a total for the whole dump of 6 500 tonnes of waste per day — would have to continue to accept in the future 1 072 500 tonnes of waste per annum (3 000 tonnes per day) in addition to 1 300 extra tonnes treated by the mechanical recycling plant, as well as between 300 and 800 tonnes of sludge and 25 tonnes per day of hazardous and infectious waste,

despite the fact that the regional plan provides for a volume of only 330 000 tonnes of waste per annum. The applicants point out that the Skalistiri site has been designated as an area warranting absolute protection and re-creation of the natural environment by Article 21 of Greek Law No 2742 (FEK A' 207 of 7 October 1999). The applicants note that the site is in part wooded (the unwooded parts being due for re-afforestation), that it includes private land the use of which will be challenged and is therefore not wholly certain, and that it is not the most suitable site for a dump, according to the studies carried out by ESDKNA, which concluded that the Meletani-Mandra site would be more appropriate. Operation of the Skalistiri dump would have catastrophic consequences for the environment of Ano Liosia, for the health of the applicants, for the value of land in the Municipality and for the development of the Municipality (see paragraph 18).

23 The Commission maintains that the unlawfulness alleged by the applicants is not at all apparent from the application for interim relief, and that, accordingly, a prima facie case (fumus boni juris) has not been established.

24 In particular, the application in no way explains in what respect the contested Decision infringes the obligations arising under the provisions invoked by the applicants. The Commission maintains that the contested Decision is, on the contrary, exemplary from the point of view of the environmental conditions and meets all the requirements for environmental and health protection, in that it provides specific criteria for satisfying the environmental conditions in order to improve the waste disposal situation in Greece and makes the financing in question conditional on fulfilment of those obligations within the time-limits laid down.

Urgency

25 The applicants claim that implementation of the contested Decision will cause serious and irreparable damage to the natural environment, to the economy of the

Municipality, including as regards the value and use of land, and to their health. As regards the natural environment, the applicants maintain that the contested Decision will adversely affect it for the reasons stated above (see paragraph 22). The situation is urgent because the Greek Government signed the contract for the project on 2 November 2004, the contract is already in force, the project study and implementation procedures are under way and progressing very quickly and the related expenditure has been paid out. The passing of time brings with it expenses and procedures adversely affecting private rights. The development of the Skalistiri dump would have an adverse effect on property values in the Municipality and would prevent a great many ares of land from being used by the Municipality and its inhabitants, including the applicants, to set up sports and cultural facilities (see paragraph 18 above).

26 The applicants claim that to restore the pre-existing situation will be particularly difficult, not to say costly. The risk is imminent and the situation is therefore urgent.

27 In the view of the Commission, the condition as to urgency is not met.

28 First, suspension of operation of the contested Decision cannot be regarded as necessary in order to avoid the alleged damage. In the first place, the Ano Liosia dump has been in operation since 1950 and the co-financing of a project to replace that site with a new site — a fortiori a site outside town boundaries — cannot be regarded as aggravating the existing situation, still less as creating an urgent situation.

29 Secondly, the alleged damage does not stem from the contested Decision, which is a co-financing decision, but from the Greek national decisions, that is to say, from the regional plan and the final selection of the Skalistiri site by the Greek authorities. Suspension of operation of the contested Decision would therefore not serve to prevent the alleged damage.

30 Thirdly, the applicants had had the option of challenging the national measures before the national courts. The availability of that option — which, according to the Commission's information, has been exercised — means that there can be no question of urgency in relation to the present proceedings for interim relief.

31 Fourthly, the alleged damage cannot be regarded as imminent, since — in the view of the Commission — the alleged effects on the economy, health and the environment are vague, unfounded, and located at some uncertain point in the future. On the contrary, there is a clear lack of urgency, given that the contested Decision requires all the conditions necessary for the protection of the environment to be satisfied, and enables the Commission to make sure that this continues to be so, inter alia by suspending the financial assistance if the obligations in question are infringed.

32 The Commission contends, secondly, that no evidence has been adduced of the serious and irreparable nature of the damage.

33 In the view of the Commission, the alleged damage — deterioration of the environment, the economy and society — is vague and hypothetical, including the alleged effects on the value of land.

34 According to the case-law, damage consisting in a fall in land values within the Municipality is neither serious nor irreparable. The Commission points out that, in any event, such damage has already occurred, given that the situation has existed since 1950. The damage consisting in the prevention of the development of land in the Municipality which could be used for recreational and sports activities is purely hypothetical. Moreover, the existing situation has already prevented the use of that land for those purposes.

35 The damage caused by the negative effects of the contested Decision on the environment and human health, the applicants being amongst those affected, is vague, hypothetical, and unproven. The applicants do not explain how the contested Decision further exacerbates the existing situation, which is highly problematical because of the overloading of the existing dump. The Commission maintains that the contested Decision will, on the contrary, help solve the existing problems and make it possible to ensure compliance with all the conditions necessary for the protection of the environment.

Balancing of interests

36 The Commission points out that, in any event, protecting the interests of all the inhabitants of Attica and protecting the environment in the region, in accordance with Community law (in particular, Directive 75/442) and with the regional plan, clearly takes precedence over the interests of a municipality with a few thousand inhabitants. Suspension of operation would lead to further delays and the overflowing of the existing dump, with catastrophic consequences. The existing situation is so problematic that the Commission has already brought an action for a declaration that the Hellenic Republic has failed to fulfil its obligations in respect of the environment (case pending C-502/03 *Commission* v *Greece*, OJ 2004 C 47, p. 15), with a view to restoring lawfulness, that being an objective which is also pursued by the Greek authorities through the implementation of their national plan, which includes the creation of a new site at Skalistiri, co-financed by the Cohesion Fund in accordance with the contested Decision.

*Findings of the President of the Court*

Preliminary observations regarding admissibility

37 It should be pointed out first that, according to settled case-law, the conditions laid down in Article 104(2) of the Rules of Procedure require that the essential elements

of fact and law on which an application is based be set out in a coherent and comprehensible fashion in the application for interim measures itself (orders of the President of the Court of First Instance in Case T-306/01 R *Aden and Others* v *Council and Commission* [2002] ECR II-2387, paragraph 52, and in Case T-303/04 R *European Dynamics* v *Commission* [2004] ECR II-3889, paragraphs 63 and 64).

38 In the present case, as the Commission rightly points out, the application contains few elements to enable the judge hearing the application for interim relief to examine whether there is a prima facie case for granting the measures sought. Nevertheless, in spite of its brevity and its confused presentation, the application contains a series of pleas in law and arguments designed to show that the conditions relating to the existence of a prima facie case and to urgency are satisfied. That has enabled the Commission properly to present observations and the President of the Court to examine them. In those circumstances, it cannot be concluded that the application must be dismissed as inadmissible on the ground that it does not satisfy the conditions laid down in Article 104(2) of the Rules of Procedure.

39 As for the Commission's argument that this application is inadmissible on the ground that the main action is manifestly inadmissible, it should be pointed out that, according to settled case-law, the issue of the admissibility of the main action must not, in principle, be examined in relation to an application for interim measures so as not to prejudge the merits of the case. Nevertheless, where, as in this case, it is contended that the main action to which the application for interim measures relates is manifestly inadmissible, it may prove necessary to establish whether there are any grounds for concluding that the main action is prima facie admissible (orders of the President of the Court of First Instance in Case T-1/00 R *Hölzl and Others* v *Commission* [2000] ECR II-251, paragraph 21, and in Case T-291/04 R *Enviro Tech Europe and Enviro Tech International* v *Commission* [2005] ECR II-475, paragraph 61).

40 In the present case, in the light of the evidence presented before the President of the Court, it must be said that it is very doubtful that the applicants are directly and individually concerned by the contested Decision.

41 Firstly, natural persons other than those to whom the contested decision is addressed must show that the decision affects them by reason of certain attributes which are peculiar to them or by reason of circumstances in which they are differentiated from all other persons and by virtue of these factors distinguishes them individually just as in the case of the person addressed (Case 25/62 *Plaumann* v *Commission* [1963] ECR 95, p. 107, and Case C-50/00 P *Unión de Pequeños Agricultores* v *Council* [2002] ECR I-6677, paragraph 36).

42 However, as the Commission points out, the situation of the applicants resembles at first sight that of the applicants in the *Greenpeace* case. In *Greenpeace*, the Court of Justice held that natural persons whose specific situation was not taken into consideration in the adoption of the decision were not individually concerned by a decision addressed to a Member State granting financial assistance from the European Regional Development Fund for the construction of two power stations (*Greenpeace*, paragraph 28).

43 Similarly, the Municipality of Ano Liosia needs to show clearly on the facts that it is adversely affected by the contested Decision by reason of a situation which differentiates it from all other persons including, in the circumstances of the present case, other municipalities in Attica, and especially from the Municipality of Fili, on whose land the new dump will be located (see, to that effect, the order of the President of the Court of First Instance in Case T-37/04 R *Região autónoma dos Açores* v *Council* [2004] ECR II-2153, paragraphs 112 and 120, and the case-law cited therein).

44 Moreover, both for the Municipality and for those of the applicants who are natural persons, the present case raises questions of admissibility notably as regards the criterion of direct concern. According to settled case-law, for a person to be directly concerned by a Community measure, the latter must directly affect the legal situation of that individual and leave no discretion to the addressees of the measure who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from Community rules without the application of other intermediate rules (Case C-386/96 P *Dreyfus* v *Commission* [1998] ECR I-2309, paragraph 43, and the case-law cited therein, and the order in Case T-139/02 *Institouto N. Avgerinopoulou and Others* v *Commission* [2004] ECR II-875, paragraph 62, and the case-law cited therein).

45 In the present case, the contested Decision is a decision to co-finance a project which has been chosen by the Greek authorities through national laws and administrative decisions. Accordingly, as the Commission points out, it seems that the Community financing granted to the project to establish a new dump at Skalistiri contributes only indirectly to its implementation. It is apparent from the documents before the Court that, given the problematic operational situation of the Ano Liosia dump, the Greek authorities were in all probability compelled to establish another dump, with or without Community co-financing. In any event, the Greek authorities had already chosen the Skalistiri site before the Commission decided to co-finance the project. Lastly, it should be pointed out that it is not immediately clear from the documents in the case that the contested Decision leaves no discretion to the Greek authorities, who are responsible for implementing the project (see the order in *Institouto N. Avgerinopoulou and Others*, paragraphs 68 to 70).

46 In those circumstances, the court adjudicating on the merits may conceivably reach the conclusion that only the decision taken by the Greek authorities is capable, as the case may be, of adversely affecting the environmental rights invoked by the applicants, and that, accordingly, the contested Decision, which concerns the Community co-financing of that project, can affect those rights only indirectly (see

to that effect *Greenpeace*, paragraphs 30 and 31, and the order in *Institouto N. Avgerinopoulou and Others,* paragraph 70).

47 Even though, in the light of the arguments of the parties at this stage of the proceedings, it may be seriously doubted whether the applicants are directly and individually concerned by the contested Decision, the President of the Court considers that it is not necessary, in the circumstances of the case, to continue his examination of the prima facie admissibility of the action for annulment. In any event, the applicants have not shown that ordering the interim measures sought is a matter of urgency (see the following).

Urgency

48 According to established case-law, the urgency of an application for the adoption of interim measures must be assessed in the light of the extent to which an interlocutory order is necessary to avoid serious and irreparable damage to the party seeking the adoption of the interim measure (order of the President of the Court of Justice in Case 310/85 R *Deufil* v *Commission* [1986] ECR 537, paragraph 15, and order of the President of the Court of First Instance in Case T-13/99 R *Pfizer Animal Health* v *Council* [1999] ECR II-1961, paragraph 134).

49 It is for the party seeking the suspension of the operation of a measure to furnish proof that he cannot await the conclusion of the main action without suffering damage of that kind (order of the President of the Court of Justice in Case C-356/90 R *Belgium* v *Commission* [1991] ECR I-2423, paragraph 23, and order of the President of the Court of First Instance in Case T-151/01 R *Duales System Deutschland* v *Commission* [2001] ECR II-3295, paragraph 187).

50 It is not necessary for the imminence of the damage to be demonstrated with absolute certainty, it being sufficient to show, particularly if the occurrence of the damage depends on a series of factors, that damage is foreseeable with a sufficient degree of probability. However, applicants are required to prove the facts forming the basis of their claim that serious and irreparable damage is likely (orders of the President of the Court of Justice in Case C-335/99 P(R) *HFB and Others* v *Commission* [1999] ECR I-8705, paragraph 67, and in Case C-278/00 R *Greece* v *Commission* [2000] ECR I-8787, paragraph 15).

51 In that regard, it must be said that, as the Commission rightly points out, the damage alleged by the applicants — consisting in the deterioration of the environment, the consequent adverse effects on health, the drop in land values in the Municipality, the prevention of certain land being used by the Municipality for various social activities — is vague, hypothetical and unsubstantiated. Such uncertain damage cannot justify the grant of suspension sought (orders of the President of the Court of Justice in Case 142/87 R *Belgium* v *Commission* [1987] ECR 2589, paragraph 25, and in Case C-296/93 R *France* v *Commission* [1993] ECR I-4181, paragraph 26; and the order of the President of the Court of First Instance in Case T-316/04 R *Wam* v *Commission* [2004] ECR II-3917, paragraph 31).

52 In particular, the application contains no evidence of the consequences that implementation of the contested Decision would entail for the health of the applicants and, in general, for the health of the inhabitants of Ano Liosia. Similarly, it need only be said that the claims relating to the deterioration of the environment are vague and wholly unsubstantiated. The applicants merely complain in general terms, as is illustrated by the arguments relating to the fact that the Skalistiri site is a zone warranting absolute protection or a wooded area, or the argument that the Ano Liosia site will have to accept a higher tonnage of waste than that provided for in the regional plan: all those assertions are unsupported by evidence or by more precise explanations. The applicants complain that a dump is being established near Ano Liosia, but do not state the reasons why the specific consequences would be detrimental to the environment, far less the reasons why it would constitute serious and irreparable damage. Given that the contested Decision refers to the fact that

strict environmental conditions have been approved for the establishment of the new dump (see, in particular, Point 12 of Annex I to the contested Decision, and the approval decision), and in view of the fact that the ESDKNA study concluded that the Skalistiri site was suitable for that purpose (ESDKNA study, pp. 16 to 18 and 23), it was for the applicants to adduce evidence to rebut that finding and to explain in what respect that decision caused them the damage alleged: and this they have not done at all.

53 On the contrary, since the applicants acknowledge that the Ano Liosia dump has been in operation for several decades in problematic circumstances and has already contributed to the problems of the Municipality and its inhabitants, it is not clear from the application in what respect the existing situation will be aggravated or how a situation which has already been in existence for several years can constitute an urgent situation justifying immediate suspension of operation of the contested Decision.

54 As regards the argument that the Municipality will be unable to use certain land for recreational, social, cultural or sports activities, the applicants' allegations are hypothetical. As the applicants themselves point out, these are proposals for future development. Moreover, the application does not set out the content of those proposals; nor does it explain in what respect the consequential damage alleged by the applicants is serious and irreparable. Those elements do not amount to a present risk of damage, but rather to an aleatory, uncertain and future risk (order of the President of the Court of First Instance in Case T-24/93 R *CMBT* v *Commission* [1993] ECR II-543, paragraph 34, and the case-law cited therein).

55 As regards the fall in land prices, apart from the fact that such damage, which is of a pecuniary nature, cannot, in principle, be regarded as serious and irreparable (order in *Enviro Tech Europe and Enviro Tech International* v *Commission*, paragraph 74, and the case-law cited therein), the applicants do not explain how the contested Decision contributes to that damage. On the contrary, the applicants acknowledge that ever since 1950 the existing situation has been contributing to the fall in land prices in the Municipality.

56 Indeed, after all is said and done, the applicants, with regard to the irreparable nature of the alleged damage, do no more than make a general allegation, according to which restoration of the pre-existing situation would be particularly difficult, not to say costly, but they in no way justify that allegation.

57 It follows that the applicants have not adduced evidence enabling the President of the Court to conclude that the alleged damage is serious and irreparable or to consider that the alleged damage is certain and imminent within the meaning of the case-law.

58 It should also be pointed out that the applicants have by no means established that suspension of operation of the contested Decision is necessary in order to avoid the alleged damage.

59 The fact that the Greek Government signed the contract for the project in question on 2 November 2004, that the contract is already in force, that the project study and implementation procedures are under way and progressing very quickly and finally, that the expenditure relating to them has been paid out are elements which do not in themselves demonstrate the existence of urgency justifying the grant of suspension of operation of the contested Decision.

60 First, as the Commission rightly points out, the option of challenging those measures before the national courts represents a more appropriate and adequate way of protecting the applicants' interests. Consequently, it is arguable that the availability of that remedy divests this application of urgency (see, to that effect, the order in *Região autónoma dos Açores* v *Council*, paragraph 162, and the case-law cited therein, and the order of the President of the Court of First Instance in Case T-34/02 R *B* v *Commission* [2002] ECR II-2803, paragraph 93).

61 Secondly, the contested Decision authorises the Commission to suspend the financing in question if ever the project does not comply with the requirements relating to environmental protection (Annex I to the contested Decision, point 12). That being so, the Commission is empowered, not to say obliged, to ascertain whether damage to the environment has been brought about in connection with the implementation of the project and, if necessary, to punish it by suspending the financial assistance (Annex III to the contested Decision, point 4). In consequence, it must be concluded that there is no urgency in respect of the protection of environmental interests (see, to that effect, the order in *Região autónoma dos Açores* v *Council*, paragraphs 183 and 184, and the case-law cited therein).

62 Lastly, moreover, it is doubtful whether suspension of operation of the contested Decision is necessary, since the applicants have not shown that, *in concreto*, regard being had to the fact that the Greek authorities had already chosen the Skalistiri site for establishing the new dump and that they have taken all the decisions necessary for implementation of the project to commence — as acknowledged, furthermore, by the applicants — suspension of the operation of that decision, which is a co-financing decision, will necessarily have the effect of altering the current situation and of sparing them the alleged damage (see, to that effect, the order in *European Dynamics* v *Commission*, paragraphs 66, 69 and 70).

63 It must be concluded, therefore, that the documents in the case do not prove to the required legal standard that, if the interim measures sought were not granted, the applicants would suffer serious and irreparable damage.

64 Accordingly, the applicants have not managed to prove that the condition relating to urgency is satisfied. In consequence, the application for interim relief must be dismissed, and it is not necessary to determine whether the application is admissible or to examine whether the other conditions for granting interim measures are satisfied.

On those grounds,

THE PRESIDENT OF THE COURT OF FIRST INSTANCE

hereby orders:

**1. The application for interim relief is dismissed.**

**2. The costs are reserved.**

Luxembourg, 23 May 2005.

H. Jung — Registrar

B. Vesterdorf — President