

Case T-44/98 R

Emesa Sugar (Free Zone) NV

v

Commission of the European Communities

(Association arrangements for overseas countries and territories —
Decisions 91/482/EEC and 97/803/EC — Regulation (EC) No 2553/97 —
Proceedings for interim relief — Intervention — Urgency — None)

Order of the President of the Court of First Instance, 14 August 1998 II - 3081

Summary of the Order

Applications for interim measures — Suspension of operation of a measure — Conditions for granting — Urgency — Serious and irreparable damage — Appraisal allowing for the Community institution's discretion — Financial damage

(EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(2))

The urgency of an application for interim measures must be assessed in relation to the necessity for an interim order to prevent serious and irreparable damage to the party applying for those measures. It is for the

party seeking suspension of the operation of a contested decision to prove that it cannot wait for the outcome of the main proceedings without suffering damage that would entail serious and irreparable consequences.

In view of the fact that the Council, in adopting Decision 97/803 introducing, within the framework of the association arrangements for overseas countries and territories, tariff quotas for the importation of certain agricultural products free of customs duties, exercised its discretion with regard to the choice of the most appropriate measure for preventing disruption of the Community market for the products at issue and in order to ensure that the judge hearing an application for interim relief does not interfere with that discretion in granting suspension of the operation of the contested decision, the applicant's request can be granted only if the urgency of the measures sought appears undeniable.

Purely financial damage cannot, save in exceptional circumstances, be regarded as irreparable since it can be made good by pecuniary compensation. The existence of exceptional circumstances may be found where it appears that, without the interim measure sought, the party concerned would be exposed to a situation liable to endanger its very existence or to alter its market share irreversibly.