

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE  
27 September 2002

Case T-236/02 R

**Luigi Marcuccio**  
v  
**Commission of the European Communities**

(Procedure for interim relief – Officials –  
Reassignment decision – Urgency – None)

Full text in Italian . . . . . II - 941

**Application for:** interim relief consisting in first, suspension of operation of the decision reassigning the Grade A 7/A 6 post and its holder, Luigi Marcuccio, from the Directorate-General for Development, Commission Delegation in Luanda (Angola), to the Directorate-General for Development in Brussels and, second, his immediate reinstatement in the job previously held with the aforementioned delegation.

**Held:** The application for interim measures is dismissed. The costs are reserved.

## Summary

*1. Applications for interim relief – Suspension of operation of a measure – Interim measures – Conditions for granting – Urgency – Prima facie case – Cumulative nature*

*(Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2))*

*2. Applications for interim relief – Suspension of operation of a measure – Conditions for granting – Serious and irreparable harm – Application for suspension of operation of a non-disciplinary decision reassigning to the seat of the Commission an official previously assigned to a delegation to a non-member country – Dismissal*

*(Art. 242 EC; Rules of Procedure of the Court of First Instance, Art. 104(2))*

1. Article 104(2) of the Rules of Procedure of the Court of First Instance provides that applications for interim measures are to state the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* case for the interim measures applied for. Those conditions are cumulative, so that such an application must be dismissed where one of them is not satisfied.

(see para. 14)

See: T-211/98 R *Willeme v Commission* [1999] ECR-SC I-A-15 and II-57, para. 18

2. The purpose of the procedure for interim relief is not to ensure that damage is compensated for, but that the judgment on the substance of the case is fully effective. In order to achieve the latter objective, the measures sought must be urgent in the sense that it is necessary, to avoid serious and irreparable damage to

the applicant's interests, that they be ordered and produce their effects before the decision in the main action is taken. A decision reassigning to Brussels an official previously assigned to a delegation to a non-member country is not such as to cause professional harm to the official concerned, since it is not disciplinary in nature. Moreover, even if such harm were established, an annulment in the main proceedings would enable it to be made good in an appropriate manner.

(see paras 32, 35)

See: C-65/99 P(R) *Willeme v Commission* [1999] ECR I-1857, para. 62; T-82/95 R *Gómez de Enterría v Parliament* [1995] ECR-SC I-A-91 and II-297, para. 21; T-173/99 R *Elkaïm and Mazuel v Commission* [1999] ECR-SC I-A-155 and II-811, para. 25