

**ORDER OF THE PRESIDENT OF THE COURT OF FIRST
INSTANCE**

of 25 June 2002

**in Case T-34/02 R: B v Commission of the European
Communities**

*(Interlocutory proceedings — State aid — Aid for construc-
tion and conversion of vessels granted as development
assistance — Recovery — Legitimate expectations — Prima
facie — Urgency)*

(2002/C 202/47)

(Language of the case: French)

In Case T-34/02 R: B, residing in Versailles (France), and 255 others, represented by P. Kirch and N. Chahid-Nourai, lawyers, with an address for service in Luxembourg, against Commission of the European Communities (Agent: G. Rozet) — application for suspension of operation of Commission Decision 2001/882/EC of 25 July 2001 on the State aid implemented by France in the form of development assistance for the cruise vessel 'Le Levant', built by Alstom Leroux Naval for operation in Saint-Pierre-et-Miquelon (OJ 2001 L 327, p. 37) — the President of the Court of First Instance made an order on 25 June 2002, the operative part of which is as follows:

1. *The application for interim relief is dismissed.*
2. *Costs are reserved.*

**Action brought on 17 May 2002 by Masdar (U.K.) Ltd
against the Commission of the European Communities**

(Case T-159/02)

(2002/C 202/48)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 17 May 2002 by Masdar (U.K.) Ltd, represented by Philip Bentley QC and Patrick Green, Barrister.

The applicant claims that the Court should:

- annul the Commission's Decision contained in its letter of 7 March 2002 refusing access to the documents mentioned in the applicant's confirmatory request dated 3 December 2001;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant in the present case is the same as in case T-68/02, Masdar (U.K.) -v- Commission, and its object is the Decision of the Commission expressly rejecting the applicant's request for access to the two audit reports mentioned in the notice to the Official Journal of the European Communities relating to the above mentioned case (not yet published).

The applicant submits that the Commission has committed an infringement of Article 253 EC in that the contested Decision failed to give adequate reasons for relying on the mandatory exclusion in the first and second indents of Article 4(2) of Regulation (EC) No. 1049/2001⁽¹⁾.

The Commission has, in the applicant's view, made a manifest error of assessment in the application of Article 4(2) of this Regulation, in that the contested Decision found that the grant of the applicant's request would undermine the protection of the purpose of inspections, investigations and audits, as well as the protection of the commercial interest of a third undertaking.

The applicant contends that the Commission has also made a manifest error of assessment in the application of Article 4(2) of the above mentioned Regulation, and has infringed the general principles of law, in so far as the contested Decision found that there was no overriding public interest in disclosure of the audit reports to the applicant.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001, regarding public access to European Parliament, Council and Commission documents (OJEC L 145, of 31.5.2001, p. 43).