

ORDER OF THE PRESIDENT OF THE COURT
24 OCTOBER 1984¹

**Oryzomyli Kavallas OEE and
Oryzomyli Agiou Konstantinou
G. Raptis — L. Triandafyllidis kai Sia OE
v Commission of the European Communities**

Case 160/84 R II

Application for interim measures — Suspension of operation of a measure — Conditions for granting — Irreparable nature of the damage

(Rules of Procedure, Article 83 (2))

In Case 160/84 R II

ORYZOMYLI KAVALLAS OEE, a partnership governed by Greek law, having its registered office at 4 Odos Panagouda, Kavala, Greece,

and

ORYZOMYLI AGIOU KONSTANTINOU G. RAPTIS — L. TRIANDAFYLLIDIS KAI SIA OE, a partnership governed by Greek law, having its registered office in Pernis, Kavala, Greece,

both represented by Panagiotis Marinos Bernitsas, of the Athens Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, Advocate, 27 Place de Paris,

applicants,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, 200 Rue de la Loi, B-1049 Brussels, Belgium, represented by Xenophon Yataganas, a member of its Legal Department, with an address for service in Luxembourg at the office of Manfred Beschel, Jean Monnet Building, Kirchberg,

defendant,

¹ — Language of the Case: Greek.

APPLICATION for the suspension of operation of Commission Decision No E (84) 557 of 25 April 1984, declaring that the remission of import duties is not justified in an individual case, and for other interim measures,

THE PRESIDENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

makes the following

ORDER

- 1 On 25 June 1984, the applicants in the main proceedings brought an action for a declaration that Commission Decision No E (84) 557 of 25 April 1984, declaring that the remission of import duties is not justified in an individual case, is void. At the same time they also made an interlocutory application for an interim measure suspending the operation of that decision.
- 2 In his order of 16 July 1984 the President of the Court stated that, in the summary inquiry carried out in interlocutory proceedings, it could not be ruled out that the Commission's decision might be declared void in the main action. In view of the urgency of the matter and notwithstanding the lack of proof that the damage which would be caused by the operation of the contested decision would be irreparable, the President decided that it was necessary to ensure that payment of the import levy was not demanded before 1 November 1984. However, he stated that it would be for the applicants to make a further application to the Court before that date in order to obtain an extension of the period, provided that they were then able to prove the damage which they alleged.
- 3 He therefore ordered the Commission to inform the Greek authorities that the import levy in question was not to be demanded before 1 November 1984, provided that the applicants lodged with the said authorities a bank guarantee securing the payment of the disputed sum at that date.

- 4 In accordance with that order the applicants made a further application on 8 October 1984 for an interim measure requiring the Commission to inform the Greek authorities that the import levies in question were not to be demanded before the Court had given judgment on the substance. They have also asked for the bank guarantee to be returned to them.
- 5 It appears from the applicants' statements, which the Commission has not challenged, that each of the applicants has a working capital of approximately DRA 15 million, which is turned over 10 or 12 times a year in order to finance the importing, processing and marketing of rice. In those circumstances, the payment of a sum of DRA 11 452 296 might constitute for them a considerable burden which might even threaten their continued existence. Consequently, despite the absence of more reliable information at this stage, it seems justified to suspend the operation of the Commission's decision, as requested.
- 6 Since, however, the applicants have not adduced any new facts which might provide grounds for ordering the guarantee lodged by them to be returned, the guarantee must be maintained.

On those grounds,

THE PRESIDENT,

by way of interim decision,

hereby orders as follows:

1. **The Commission shall inform the Greek authorities that the import levy in question must not be demanded before the Court has delivered judgment;**

2. **However, the applicants must continue to provide the said authorities with a bank guarantee securing the payment of the disputed sum at that date;**
3. **The costs are reserved.**

Luxembourg, 24 October 1984.

J. A. Pompe
Deputy Registrar

A. J. Mackenzie Stuart
President