

Case T-308/94 R

Cascades SA

v

Commission of the European Communities

(Competition — Payment of a fine —
Bank guarantee — Procedure for interim relief)

Order of the President of the Court of First Instance, 17 February 1995 II - 267

Summary of the Order

Applications for interim measures — Suspension of operation of a measure — Suspension of operation of a decision imposing a fine — Conditions for granting — Provision of a guarantee — Whether permissible — Exceptional circumstances — Grant of a period for provision of the guarantee made subject to conditions designed to safeguard the interests of the Community in the event that the applicant's financial position should deteriorate over the intervening period (EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(2))

The Court hearing an application for interim measures may order suspension of the obligation on an applicant undertaking to provide a bank guarantee ensuring payment of the fine imposed on it only if there are excep-

tional circumstances, which may, in particular, result from the fact that it is impossible for the undertaking to provide the necessary guarantee.

With regard to the difficulties which an applicant, by reason of its financial position, faces in obtaining from a bank the guarantee required by the Commission, such difficulties cannot be regarded as insurmountable simply because the bank's assistance is made subject to an undertaking by other companies in the group to which the applicant belongs.

Suspension of the obligation to provide the guarantee may be justified in view of the time necessary for completing the steps required by such an undertaking. The grant of a period for provision of the guarantee corresponding to this constraint must, however, be made subject to conditions designed to safeguard the interests of the Community in the event that the applicant's financial position should deteriorate over the intervening period.