

Case T-191/96 R

CAS Succhi di Frutta SpA

v

Commission of the European Communities

(Competition — Procedure for interim relief —
Application for suspension of the operation of a measure)

Order of the President of the Court of First Instance, 26 February 1997 II - 213

Summary of the Order

1. *Applications for interim measures — Conditions for admissibility — Admissibility of the main action — Irrelevant — Limits*
(*EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(1)*)
2. *Applications for interim measures — Suspension of operation of a measure — Conditions for granting — Serious and irreparable damage — Meaning — Onus of proof*
(*EC Treaty, Art. 185; Rules of Procedure of the Court of First Instance, Art. 104(2); Commission Regulation No 228/96*)

1. The admissibility of the main action must not as a matter of principle be examined in a procedure for interim measures. It must be reserved for the examination of the main application, unless it is apparent

at first sight that the latter is manifestly inadmissible, so as not to prejudge the Court's decision on the substance of the case.

2. The urgency of the adoption of interim measures must be considered by examining whether the implementation of the contested measures, prior to the adoption of the decision of the Community judicature on the main issue, is such as to give rise, for the party requesting the measures, to serious and irreparable damage which could not be made good if the contested decision were annulled or which, despite its interim nature, would be disproportionate to the defendant's interest in having the measures implemented, even when they are the subject of legal proceedings. It is for the applicant to prove that those conditions are satisfied.

An application for interim measures seeking the suspension of the operation of a decision adopted in connection with the implementation of Regulation No 228/96, whereby the Commission determined the criteria for substituting peaches and apricots for the apples and oranges initially envisaged as payment for the supply of fruit juice and fruit jams for the people of Armenia and Azerbaijan, must be rejected where the applicant has failed to adduce any evidence to support its claims to the effect that the adoption of the contested decision would result in serious distortion of competition in the market in the industrial processing of peaches, causing serious and irreparable damage.