Reports of Cases

ORDER OF THE VICE-PRESIDENT OF THE COURT

14 January 2016*

(Application for interim measures — Appeal — Suspension of operation of a judgment of the General Court of the European Union — Request for confidential treatment of certain information contained in a decision of the European Commission finding an unlawful cartel on the European market for glass for use in motor vehicles — Rejection decision by the Commission and judgment of the General Court dismissing the action for annulment of that decision — Urgency — Serious and irreparable damage — None)

In Case C-517/15 P-R,

APPLICATION for suspension of operation under Articles 278 TFEU and 279 TFEU, lodged on 25 September 2015,

AGC Glass Europe SA, established in Brussels (Belgium),

AGC Automotive Europe SA, established in Fleurus (Belgium),

AGC France SAS, established in Boussois (France),

AGC Flat Glass Italia Srl, established in Cuneo (Italy),

AGC Glass UK Ltd, established in Northampton (United Kingdom),

AGC Glass Germany GmbH, established in Wegberg (Germany),

represented by L. Garzaniti, A. Burckett St Laurent and F. Hoseinian, avocats,

appellants,

the other party to the proceedings being:

European Commission, represented by G. Meessen, P. Van Nuffel and F. van Schaik, acting as Agents, with an address for service in Luxembourg,

defendant at first instance,

THE VICE-PRESIDENT OF THE COURT,

after hearing the Advocate General, M. Szpunar,

makes the following

* Language of the case: English.

Order

1 By their appeal lodged at the Registry of the Court of Justice on 25 September 2015, AGC Glass Europe SA, AGC Automotive Europe SA, AGC France SAS, AGC Flat Glass Italia Srl, AGC Glass UK Ltd and AGC Glass Germany GmbH asked the Court to set aside the judgment of the General Court of the European Union of 15 July 2015 in *AGC Glass Europe and Others* v *Commission* (T-465/12, EU:T:2015:505, 'the judgment under appeal'), by which the General Court dismissed their action for annulment of Commission Decision C(2012) 5719 final of 6 August 2012 on the rejection of a request for confidential treatment submitted by the appellants, adopted pursuant to Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (Case COMP/39.125 — Car glass) ('the contested decision').

2 By separate document, lodged at the Court Registry the same day, the appellants brought the present application for interim measures, under Articles 278 TFEU and 279 TFEU, seeking suspension of operation of the judgment under appeal and of the contested decision.

3 The European Commission submitted its written observations on 23 October 2015. The appellants and the Commission presented oral argument on 10 December 2015.

Background to the dispute and the judgment under appeal

4 On 12 November 2008, the Commission adopted Decision C(2008) 6815 final relating to a proceeding under Article [81 EC] and Article 53 of the EEA Agreement, in which it found against a number of automotive glass (car glass) manufacturers, including the appellants (Case COMP/39.125 — Car glass) ('the carglass decision').

5 By letter of 25 March 2009, the Commission's Directorate-General (DG) for Competition informed the appellants of, inter alia, its intention to publish, in accordance with Article 30 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [81 EC] and [82 EC] (OJ 2003 L 1, p. 1), a non-confidential version of the carglass decision on its website in English, French and Dutch, the authentic languages of the case. DG Competition also asked the appellants to identify any information that was confidential or constituted business secrets and to give reasons for their assessment in that regard.

6 In December 2011, following an exchange of correspondence with the appellants, DG Competition adopted the non-confidential version of the carglass decision to be published on the Commission website. It is apparent from the correspondence in question that DG Competition did not act on the appellants' requests for redaction of information contained in 246 recitals of the carglass decision and 122 footnotes thereto.

7 In accordance with Article 9 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of hearing officers in certain competition proceedings (OJ 2001 L 162, p. 21), the appellants made it known to the Hearing Officer that they objected to the publication, first, of certain information containing customer names and descriptions of the products concerned and any information that could enable an individual customer to be identified and, secondly, of part of a sentence in recital 726 of the carglass decision.

8 By the contested decision, the Hearing Officer ruled on the appellants' request.

9 In the form of preliminary points, the Hearing Officer stated, in the first place, that the Commission Notice on immunity from fines and reduction of fines in cartel cases (OJ 2006 C 298, p. 17) does not mean that the appellants had a legitimate expectation preventing the Commission from publishing

information not covered by professional secrecy. Furthermore, the appellants' interest in the non-disclosure of details of their conduct not covered by professional secrecy did not warrant any particular protection. The Hearing Officer stated moreover that he was not competent to decide whether it was appropriate to publish non-confidential information or to take a position as regards any adverse effects that might have been brought about by the Commission's general policy in that regard.

10 In the second place, the Hearing Officer rejected the argument that the Commission was bound by its previous practice relating to the extent of the publication. The Hearing Officer also noted that the intended publication did not mention the source of the statements or other documents submitted in the context of that disclosure, but pointed out that he was not competent to rule on the extent of the intended publication in the light of the principle of equal treatment.

11 More specifically, the contested decision essentially rests on the examination of two arguments put forward by the appellants. The first argument, examined in recitals 22 to 35 of that decision, relates to the inherently confidential nature of the information at issue and the second, examined in recitals 36 to 45 of that decision, relates to the protection of the identity of natural persons.

12 As regards the first argument, the Hearing Officer found first that, given the specific characteristics of the carglass market, the information concerning customer names and descriptions of the products concerned was by its very nature known beyond the appellants, secondly, that it was historical, and, thirdly, that it referred to the very essence of the infringement. Moreover, the interests of the persons harmed required its disclosure. Furthermore, to the extent that the appellants had raised specific arguments seeking to establish that the information was confidential notwithstanding its general characteristics as described above, the Hearing Officer concluded, following an analysis which took account of three cumulative conditions, that the information at issue was not covered by the obligation of professional secrecy.

13 As regards the second argument, the Hearing Officer relied on Article 5 of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1) and granted the appellants' request in part.

14 Article 3 of the contested decision having rejected the remainder of the request, the appellants brought an action for annulment of that decision in so far as it rejected their request.

15 In the proceedings at first instance, the appellants had received assurances from the Commission that it would refrain from implementing the contested decision until the judgment under appeal had been delivered, so that they did not consider it necessary to seek interim measures in that regard.

16 The judgment under appeal having dismissed the appellants' action, they brought the appeal referred to in paragraph 1 of the present order, in support of which they put forward three grounds of appeal. The first ground of appeal alleges that the General Court erred in law by holding that the competence of the Hearing Officer provided for in Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ 2011 L 275, p. 29) is limited to the issue of whether the information that the Commission intends to publish constitutes business secrets or was in any event confidential. The second ground of appeal also alleges that the General Court erred in law by finding that the contested decision did not breach the principles of protection of legitimate expectations and of equal treatment. Finally, by their third ground of appeal, the appellants argue that the General Court departed from the case-law without providing adequate reasons.

17 Following the dismissal of the action by the General Court, the Commission, it is claimed, indicated its intention of implementing the contested decision, this time without awaiting delivery of the judgment of the Court of Justice on the appeal brought by the appellants against the judgment under appeal. In those circumstances, the appellants brought the present application for interim measures.

Forms of order sought by the parties

18 The appellants claim that the Court should:

— order suspension of operation of the operative part of the judgment under appeal and of Article 3 of the contested decision pending delivery of its ruling on the appeal;

— order such further or other relief as may seem just and appropriate in the circumstances, and

— order the defendant to pay the costs.

19 The Commission contends that the application for interim measures should be dismissed and the appellants ordered to pay the costs.

The application for interim measures

20 Under Article 60, first paragraph, of the Statute of the Court of Justice of the European Union, an appeal against a judgment of the General Court does not, in principle, have suspensory effect. However, pursuant to Article 278 TFEU, the Court may, if it considers that the circumstances so require, order that application of the judgment under appeal be suspended.

21 Article 160(3) of the Rules of Procedure of the Court provides that applications for interim measures must state 'the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a prima facie case for the interim measures applied for'. Accordingly, the court hearing an application for interim relief may order suspension of operation of an act, or other interim measures, if it is established that such an order is justified, prima facie, in fact and in law and that it is urgent in so far as, in order to avoid serious and irreparable harm to the applicant's interests, it must be made and produce its effects before a decision is reached in the main action. Those conditions are cumulative, so that applications for interim measures must be dismissed if any one of them is not satisfied. The court hearing the interim application must also if necessary weigh up the interests at stake (order of the Vice-President of the Court in *Commission* v *ANKO*, C-78/14 P-R, EU:C:2014:239, paragraph 14 and the case-law cited).

22 With regard to the urgency of the interim measures sought, the appellants, on the assumption that the information in question inherently deserves protection, argue that, as it is specific commercial information relating to data such as the names of customers, descriptions of the products concerned and other information that could enable identification of individual customers, any subsequent annulment of the contested decision would not remedy the effects of its disclosure. Such publication would allow third parties to access that information and to use it, particularly by inferring other commercial data from it — such as price calculations, price changes and other financial information — the anonymity of which would therefore no longer be ensured. Consequently, such publication would cause the appellants serious and irreparable damage that is sufficiently foreseeable and probable.

23 The harm suffered by the appellants would be irreparable, in so far as, first, the fact of making information available to a certain public is immediate and irreversible, so that the annulment of the contested decision would not redress the harm caused by it. The same can also be said of the

information in question and of a prohibition of its disclosure decided after that information has been disclosed. Secondly, the appellants' financial loss is, in their view, unquantifiable. In the first place, it is apparent from the Court's case-law, in particular the order of the Vice-President of the Court in *Commission* v *Pilkington Group* (C-278/13 P(R), EU:C:2013:558), that that loss is likely to vary, both as to its nature and as to its scope, depending on whether the persons who acquire knowledge of that information are customers, competitors and suppliers of the appellants or financial analysts or members of the general public. In that regard, the appellants state that it is impossible to identify the number and status of all the persons who could acquire knowledge of the information in question and thus assess the actual negative effects arising from publication of that information. In the second place, as a result of the carglass decision, the appellants are, it is claimed, already facing a number of claims for compensation, either directly as defendants, or in the context of their joint liability with the other addressees of that decision. In that context, publication of the information in question would weaken the position of the appellants in those court proceedings and in negotiations with a view to settlements out of court. Finally, the appellants argue that the adverse financial effects linked to the publication of the information in question cannot be fully quantified. In fact, having regard to all the amounts that would come to be payable by the appellants in respect of damages or payment transactions, it will not be possible to quantify the portion attributable solely and directly to the disclosure of the information in question.

24 The Commission disputes, at the outset, that the information at issue deserves protection. In fact, that would only be the case if, after the substantive proceedings, the second ground of appeal were upheld.

25 As regards the specific arguments raised by the appellants, the Commission contends, in the first place, that the substance of the Vice-President of the Court's order in *Commission* v *Pilkington Group* (C-278/13 P(R), EU:C:2013:558) is not transposable here, in so far as, in contrast to the case giving rise to that order, in the present case it is undisputed that the information in question does not constitute business secrets or other types of confidential information. In that context, the Commission adds that the argument that the publication of the information in question would enable third parties to acquire knowledge, by inference, of other commercial data, the anonymity of which would therefore no longer be ensured, such as price calculations, price changes and other financial information, is unfounded, given that such data would not have to be granted anonymity, as the appellants never requested confidential treatment of that information. Furthermore, the appellants, while acknowledging that the damage is of a financial nature, do not claim and, *a fortiori*, do not establish that such damage is likely to jeopardise their very existence or substantially reduce their market share, whereas such proof is required by the case-law of the Court in order to find that damage of a purely financial nature constitutes irreparable damage. In other words, the irreparable nature of publication does not mean that the damage allegedly caused by that publication is itself serious and irreparable.

26 In the second place, concerning the use of the information in question in the context of actions for damages brought against the appellants, the Commission argues that, even if such information was in fact considered useful in support of such actions, this would not, however, mean that its disclosure would be likely to cause serious and irreparable damage that could be avoided by suspending the operation of the contested decision. In that regard, the Commission argues that the financial loss connected to the compensation that the appellants could be ordered to pay is not caused directly by the disclosure of that information, but by the appellants' participation in the cartel found by the carglass decision. Accordingly, disclosure of the information in question does nothing more than allow persons who have suffered harm as a result of that cartel to obtain compensation, relying on a right specifically given them by the Treaties. The Commission adds that, as regards the amount of compensation that can be directly connected to the disclosure of the information in question, the appellants have not established to the requisite legal standard either that the obligation to pay that amount would cause them financial harm that could jeopardise their existence or substantially reduce their market share, or that it would be impossible to quantify that amount, even though the number of people who have suffered harm as a result of the cartel found by the carglass decision is limited.

27 In order to determine whether the interim measures sought are urgent, it should be noted that the purpose of the procedure for interim relief is to guarantee the full effectiveness of the future final decision, in order to prevent a lacuna in the legal protection afforded by the Court. To attain that objective, urgency must be assessed in the light of the need of an interlocutory order to avoid serious and irreparable damage to the party requesting the interim measure (order of the Vice-President of the Court in *Lito Maieftiko Gynaikologiko kai Cheirourgiko Kentro* v *Commission*, C-506/13 P-R, EU:C:2013:882, paragraph 18 and the case-law cited). That party must demonstrate that it cannot await the outcome of the main proceedings without suffering serious and irreparable damage (order of the Vice-President of the Court in *Commission* v *Rusal Armenal*, C-21/14 P-R, EU:C:2014:1749, paragraph 37 and the case-law cited).

28 In the present case, the appellants essentially identify two heads of damage that they would suffer if the operation of the judgment under appeal and the contested decision were not suspended.

29 In the first place, relying on the order of the Vice-President of the Court in *Commission* v *Pilkington Group* (C-278/13 P(R), EU:C:2013:558), they allege that publication of the information in question would be likely to harm them because of the very nature of that information.

30 In that regard, it should be pointed out that, as is apparent in particular from paragraphs 18 and 38 of that order, in its action for annulment, Pilkington Group Ltd had disputed the Commission's assessment that the information it intended to disclose under Article 30(1) of Regulation No 1/2003 did not constitute business secrets within the meaning, inter alia, of Article 339 TFEU and Articles 28(1) and 30(2) of that regulation. Therefore, the considerations which the court hearing the application for interim relief took into account in order to conclude that the condition of urgency was established in that case were based on the premise, expressly referred to in paragraph 47 of that order, that the information in question in that case was covered by the obligation of professional secrecy.

31 However, it must be noted, as the Commission has argued, that the circumstances of the case giving rise to that order are distinct from those at issue in the present case.

32 In the present case, the General Court, in paragraphs 22 to 54 of the judgment under appeal, examined and rejected the sixth plea in law relied on by the appellants in support of their action for annulment, in the context of which they disputed the assessment of the Hearing Officer that the information in question did not constitute business secrets, within the meaning of Article 30(2) of Regulation No 1/2003 and Article 8(2) of Decision 2011/695.

33 It is apparent from the application for interim relief that the appeal brought by the appellants is not directed against that part of the judgment under appeal, so that it must be considered that it has been definitively determined that the information in question did not constitute business secrets. It follows that the analysis of urgency in the present case must be based on the premise, unlike that adopted by the court hearing the application for interim relief in the order of the Vice-President of the Court in *Commission* v *Pilkington Group* (C-278/13 P(R), EU:C:2013:558), that the information in question is not covered by the obligation of professional secrecy.

34 Furthermore, the fact that the publication of the information in question could infringe the principles of protection of legitimate expectations and of equal treatment, as the appellants claim in their second ground of appeal, cannot suffice, as such, to find that that information must be regarded as being covered by the obligation of professional secrecy and that, as a consequence, its disclosure would cause serious and irreparable damage to the appellants. Such a fact, if established, would at most constitute the basis for requiring the Commission not to disclose such information, as indeed that institution acknowledges.

35 Admittedly, as the appellants argue, the publication of information, such as the information in question, is irreversible, in so far as the annulment of the contested decision cannot reverse the effects of their disclosure, since knowledge of that information is acquired immediately and irreversibly by those who read it. Nor, moreover, did the Commission specify why the reasons that led it to suspend disclosure of the information in question pending delivery of the judgment under appeal, which took place at the end of proceedings lasting for a period of about 25 months, were not also relevant in leading it to postpone disclosure of the information in question pending delivery of the Court's ruling on the merits of the appellants' appeal.

36 However, in order to satisfy the conditions for granting interim measures and, in particular, the condition regarding urgency, the irreversible nature of the disclosure of such information must be likely to cause serious and irreparable damage to the appellants.

37 It must be pointed out in that regard that while, in order to establish the existence of such damage, it is not necessary for the occurrence of the damage to be demonstrated with absolute certainty, it being sufficient to show that damage is foreseeable with a sufficient degree of probability, the party seeking interim measures is nevertheless required to prove the facts forming the basis of his claim that serious and irreparable damage is likely (orders of the President of the Court in *HFB and Others* v *Commission*, C-335/99 P(R), EU:C:1999:608, paragraph 67, and of the Vice-President of the Court in *Commission* v *Pilkington Group*, C-278/13 P(R), EU:C:2013:558, paragraph 37).

38 In the present case, the appellants merely argued that, because the information in question constitutes specific commercial information relating to data such as the names of customers, descriptions of the products concerned and other information that could enable identification of individual customers, disclosure of that information would be likely, as such, to harm them because it would allow third parties to access that information and to use it, particularly by inferring other commercial data from it, the anonymity of which would therefore no longer be ensured, such as price calculations, price changes and other financial information.

39 In that regard, it must be noted at the outset that the appellants have not adduced any evidence demonstrating that disclosure of the information in question would allow third parties to acquire knowledge, by way of inference, of that other commercial data, so that such information should remain confidential.

40 Furthermore, it has indeed been held that disclosure of business secrets is likely to cause damage consisting in the fact that, once the confidential information has been published, any subsequent annulment of the contested decision, on grounds of infringement of Article 339 TFEU and of the fundamental right to the protection of professional secrecy, would not reverse the effects of the publication of that information. The customers, competitors and suppliers of the undertaking concerned, financial analysts and the general public could have access to the information in question and use it as they pleased, which would cause serious and irreparable damage to that undertaking (see, to that effect, order of the Vice-President of the Court in *Commission* v *Pilkington Group*, C-278/13 P(R), EU:C:2013:558, paragraphs 46 to 48).

41 However, the same cannot be said regarding the disclosure of information that cannot be considered to be covered by professional secrecy.

42 As stated in paragraph 33 of the present order, the General Court found, in paragraphs 36 to 40 of the judgment under appeal, without this being been challenged by the appellants in their appeal, first, that the information in question, and specifically that concerning the identity of customers, was already known by an unrestricted number of persons, given in particular the degree of transparency that characterises the carglass market in that regard, and, secondly, that since that information dates from more than five years before the date of the contested publication, it was historical within the meaning of the case-law of the General Court.

43 Consequently, the appellants are not in a position to demonstrate that, despite the fact that the information in question is not, or is no longer, covered by professional secrecy, its disclosure would be likely to cause them harm due to the very nature of that information.

44 With regard to the second head of damage alleged by the appellants, they argue that disclosure of the information in question would weaken their position, first, in the continuing judicial proceedings for damages in which they are involved, either directly or in the context of their joint liability with the other addressees of the carglass decision, and, secondly, in the negotiations with a view to settlements out of court.

45 In that regard, it must be pointed out that, as the Commission argues in its written observations, according to the established case-law of the Court, when suspension of the operation of a European Union act is sought, the grant of the interim measures requested is justified only where the act at issue constitutes the decisive cause of the alleged serious and irreparable damage (orders of the President of the Court in *Akhras* v *Council*, C-110/12 P(R), EU:C:2012:507, paragraph 44, and *Hassan* v *Council*, C-168/12 P(R), EU:C:2012:674, paragraph 28, and of the Vice-President of the Court in *EDF* v *Commission*, C-551/12 P(R), EU:C:2013:157, paragraph 41).

46 The obligation to redress the harm caused by an undertaking resulting from its infringement of the European Union competition rules falls within the civil liability of that undertaking. Consequently, the decisive cause of the damage allegedly connected to the actions for damages and the negotiations with a view to a settlement out of court lies, not in the disclosure of the information in question by the Commission, but in the infringement of competition law committed by the appellants, as noted in the carglass decision.

47 Admittedly, as a general rule, in judicial proceedings concerning claims for damages for infringement of competition law, the burden of proof is borne by the claimant who claims to have suffered damage as a result of the infringement. In that regard, it expressly follows from the written observations of the Commission that the information in question is in fact likely to facilitate the production of such evidence by claimants for damages against the appellants, in so far as that information provides those claimants with evidence that would not otherwise be available to them.

48 However, even though national procedural law would not require the defendant, in an action for damages, to produce evidence establishing its own liability, such a legal circumstance would not, however, prohibit the Commission from disclosing information on the sole ground that it could constitute such evidence and, therefore, harm the position of that defendant.

49 That would be tantamount to requiring the Commission to keep information confidential for the sole purpose of protecting, for the addressees of a decision finding an infringement of European Union competition rules, their interest in rendering the evidence in question inaccessible to persons seeking compensation.

50 While recognising the importance of that interest, particularly in so far as it falls within the rights of the defence in that type of action, the fact remains that, first, no rule of EU law requires the Commission to protect such an interest by obliging it to protect the confidentiality of information, such as the information in question, contrary to the obligation of transparency imposed on it by Article 15 TEU and, more specifically in the present case, by Article 30 of Regulation No 1/2003. Secondly, Article 5(5) of Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ 2014 L 349, p. 1), expressly provides that the undertaking's interest in avoiding actions for damages following an infringement of competition law is not to constitute an interest that warrants protection.

51 Moreover, even assuming that disclosure of the information in question could be regarded as the decisive cause of damage to the appellants and that the interest in question merits protection as such, it should be recalled that, as is stated in paragraph 27 of the present order, urgency must be assessed in the light of the need for an interlocutory order to avoid serious and irreparable damage to the party seeking interim relief.

52 In that regard, first, it should be noted that, as the appellants themselves acknowledge, the alleged damage is of a financial nature.

53 In accordance with settled case-law of the Court, damage of a pecuniary nature cannot, save in exceptional circumstances, be regarded as irreparable since, as a general rule, pecuniary compensation is capable of restoring the aggrieved person to the situation that obtained before he suffered the damage. Any such damage could be remedied by the applicant's bringing an action for compensation on the basis of Articles 268 TFEU and 340 TFEU (order of the Vice-President of the Court in *Commission* v *Pilkington Group*, C-278/13 P(R), EU:C:2013:558, paragraph 50 and the case-law cited).

54 However, damage of a financial nature is considered to be irreparable if it cannot be wholly remedied, which may in particular be the case if the damage, even when it occurs, cannot be quantified (order of the Vice-President of the Court in *Commission* v *Pilkington Group*, C-278/13 P(R), EU:C:2013:558, paragraph 52 and the case-law cited).

55 In the present case, the appellants argue that the damage in question cannot be quantified in an action for damages against the European Union should their appeal be upheld, given that, having regard to the total amounts that would be payable by the appellants in respect of actions for damages or settlement payments, it will not be possible to determine the portion of those amounts attributable solely and directly to the disclosure of the information in question.

56 It must be pointed out in that regard that it has already been held that the uncertainty of obtaining compensation for pecuniary damage if an action for damages is brought cannot in itself be regarded as a factor capable of establishing that such damage is irreparable. At the interlocutory stage, the possibility of subsequently obtaining compensation for pecuniary damage if an action for damages is brought following annulment of the contested measure is necessarily uncertain. Interlocutory proceedings are not intended to act as a substitute for an action for damages in order to remove that uncertainty, since their purpose is only to guarantee the full effectiveness of the final future decision that will be made in the main action, in this case an action for annulment, to which the interlocutory proceedings are an adjunct (orders of the President of the Court in *Alcoa Trasformazioni* v *Commission*, C-446/10 P(R), EU:C:2011:829, paragraphs 55 to 57, and of the Vice-President of the Court in *Commission* v *Pilkington Group*, C-278/13 P(R), EU:C:2013:558, paragraph 53).

57 Consequently, the appellants' arguments seeking to show that disclosure of the information in question would cause them irreparable damage cannot succeed.

58 Secondly, it should be pointed out that the appellants have not adduced evidence, either in their application for interim measures or in their oral submissions, to establish the serious nature of the damage which they allege.

59 In particular, given that that alleged damage can, in fact, as is stated in paragraph 46 of the present order, relate only to the damage caused by the infringement of European Union competition law found in the carglass decision, it was incumbent upon the appellants, for the purposes of the present proceedings, if not to quantify precisely the portion of the damages for which they are, or become, liable as a result of the disclosure of the information in question, at least to provide the commercial and financial information in their possession that would enable the Court to assess, taking into account in particular the turnover connected to the sale of the goods that are the subject of the infringement in question and their production costs, the probable magnitude of their obligation to

compensate and its relative importance in relation to the financial capacity of the group to which it belongs. Questioned on this point by the court hearing the interim application on 10 December 2015, the appellants merely reiterated their argument that they are unable to determine that portion of the damages, without explaining, however, the reasons why they could not make even approximate projections regarding the financial impact caused by the infringement of European Union competition law attributable to the appellants, for example on the basis of compensation claims already pending.

60 It follows from all the foregoing considerations that the appellants have not provided proof that enforcement of the judgment under appeal and of the contested decision would be likely to cause them serious and irreparable damage. It follows that the condition of urgency has not been met, so that this application for interim relief must be dismissed without its being necessary to examine whether there is a prima facie case or to weigh up the interests at stake.

On those grounds, the Vice-President of the Court hereby orders:

1. The application for interim measures is rejected.

2. The costs are reserved.

[Signatures]