



## Reports of Cases

### Order of the President of the General Court of 11 March 2013 — *Elan v Commission*

(Case T-27/13 R)

(Interim measures — State aid — Decision declaring the aid incompatible with the internal market and ordering its recovery from the beneficiary — Application for stay of execution — Lack of urgency)

1. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Prima facie case — Urgency — Serious and irreparable damage — Cumulative nature — Balancing of all the interests involved — Discretion of the court hearing the application for interim relief (Arts 256(1) TFEU, 278 TFEU and 279 TFEU; Rules of Procedure of the General Court, Art. 104(2)) (see paras 6-8)*
2. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Urgency — Serious and irreparable damage — Burden of proof — Financial loss — Obligation to provide concrete and precise indications, supported by detailed documentary evidence — Situation which could jeopardise the existence of the applicant company or irremediably alter its position in the market — Consideration of the size of the undertaking (Arts 278 TFEU and 279 TFEU; Rules of Procedure of the General Court, Art. 104(2)) (see paras 13, 14, 16)*
3. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Urgency — Commission decision ordering recovery of State aid — Decision addressed to the Member State and not to the beneficiary — Account taken of national implementing measures — Non-binding measures — No urgency (Arts 278 TFEU, 279 TFEU and 288, fourth para., TFEU; Rules of Procedure of the General Court, Art. 104(2)) (see paras 18-21, 23, 24)*
4. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Balancing of all the interests involved — Commission decision ordering recovery of State aid — Public interest defended by the Commission and interest of the aid beneficiary — No exceptional circumstances — Primacy of the public interest (Arts 108(2) TFEU and 278 TFEU; Council Regulation No 659/1999, Art. 7) (see paras 27-29, 32)*

**Re:**

APPLICATION for a stay of execution of Commission Decision C(2012) 6345 final of 19 September 2012 on the measures taken in favour of the group Elan d.o.o. [(SA.26379) (C 13/2010) (ex NN 17/2010)].

**Operative part**

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