

Case T-13/94

Century Oils Hellas AE  
v  
Commission of the European Communities  
(Admissibility)

Order of the Court of First Instance (First Chamber), 4 July 1994 ..... II - 433

Summary of the Order

1. *Actions for failure to act — Natural or legal persons — Actionable omissions — Failure to initiate infringement proceedings — Inadmissibility*  
(*EC Treaty, Arts 169, 173, fourth para., and Article 175, third para.*)
  2. *Actions for failure to fulfil obligations — Right of action reserved to the Commission and the Member States — Action brought by a natural or legal person — Inadmissibility*  
(*EC Treaty, Arts 169 and 170*)
1. An action for a failure to act brought by a natural or legal person seeking a declaration that, by not bringing infringement proceedings against a Member State, the Commission has declined contrary to the Treaty to adopt a decision, are inadmissible.

First, the Commission is not bound to commence proceedings under Article 169 of the Treaty but enjoys a discretionary power which precludes any right on the part of individuals to require it to adopt a specific position.

Secondly, natural or legal persons may apply to the Community judicature under the third paragraph of Article 175 of the Treaty only for a declaration that one of the institutions has declined contrary to the Treaty to adopt decisions of which they are the potential recipients. Yet, in the case of proceedings under Article 169 for failure to fulfil obligations, the only acts which the Commission may be minded to adopt are ones addressed to Member States.

Finally, a natural or legal person requesting the Commission to commence proceedings under Article 169 is in fact seeking the adoption of acts not of direct and individual concern to that person within the meaning of the fourth paragraph of Article 173, and therefore in no way open to challenge in annulment proceedings.

2. Under the terms of Articles 169 and 170 of the Treaty, the power to apply to the Community judicature for a declaration that a Member State has failed to fulfil its obligations is not extended to natural or legal persons but only to the Commission and the Member States.