

Case T-510/93

**Dieter Obst**  
v  
**Commission of the European Communities**

(Inadmissibility -- Act adversely affecting an official)

Full text in German . . . . . II - 461

**Application for:** Annulment of the implied decision rejecting the applicant's candidature and for an order that the defendant notify to the applicant a reply giving reasons for the decision.

**Decision:** Application dismissed.

**Abstract of the Judgment**

After examining six applications, including that of the applicant, submitted in response to publication of a vacancy notice, the Commission decided at an early stage that it could not fill the post in question and subsequently republished an identical vacancy notice. Seven candidates, including six original candidates of whom the applicant was one, submitted applications.

The applicant then lodged a complaint against the ‘implied rejection’ of his initial application.

After examining the second round of applications, the Commission appointed Mr X to the vacant post and informed the applicant that, in accordance with its decision, he had been unsuccessful. The applicant lodged a further complaint, followed by an action (Case T-562/93).

### Admissibility

The Court takes the view that the Commission cannot be accused of misusing its powers for judging it necessary to increase the number of candidates and republish the vacancy notice, and considers that the applications submitted in response to the first publication remained valid during the examination of the seven applications which followed the second. The second publication does not therefore imply any decision on the first round of applications and cannot in any way be regarded as an implied decision to reject those applications or to close the procedure for filling the post. The procedure was not closed until the decision to appoint Mr X to the vacant post, which is the only act that adversely affects the applicant in that it is capable of directly affecting his legal position. The pleas in law for annulment must therefore be held inadmissible (paragraphs 24, 25 and 26).

The Court also dismisses as inadmissible the applicant’s claim that the Commission should be ordered to provide him with a reasoned reply to his first application because, in the first place, the Community judicature cannot issue directions to a Community institution without encroaching upon the prerogatives of the administrative authority and, secondly, in the absence of an act adversely affecting the applicant the Commission is under no obligation to give him reasons (paragraph 27).

See: T-15/91 *Bollendorff v Parliament* [1992] ECR II-1679, para. 57

**Operative part:**

**The application is dismissed as inadmissible.**