

Case T-167/95

Hedwig Kuchlenz-Winter
v
Council of the European Union

(Action for declaration of failure to act — Former officials —
Social security — Admissibility)

Order of the Court of First Instance (First Chamber), 26 November 1996 II - 1609

Summary of the Order

1. *Actions for failure to act — Natural or legal persons — Act sought — Regulation — Inadmissible*
(*EC Treaty, Art. 175, third para.*)
2. *Actions for failure to act — Natural or legal persons — Actionable omissions — Failure by the Council to request the Commission to submit to it proposals for the amendment of the Staff Regulations of Officials — Inadmissible*
(*EC Treaty, Arts 152 and 175*)

1. An action brought under Article 175 of the Treaty by a natural or legal person must be dismissed as inadmissible where the only legal instrument which would satisfy the request made to the institution concerned is a regulation, since an instrument of that kind cannot be described, by reason either of its form or of its nature, as an act capable of being addressed to such a person within the meaning of the third paragraph of Article 175 of the Treaty.

Even on the assumption that an individual may complain that an institution has failed to adopt an act which, whilst

not addressed to him, is of direct and individual concern to him, the action is inadmissible if the applicant is unable to show that the act in question would place him in a situation of that kind.

2. Where an action is brought by a natural or legal person for a declaration that, by failing to request the Commission to submit to it proposals for the amendment of the Staff Regulations of Officials, the Council has failed to act, in breach of Article 152 of the Treaty, that action is inadmissible, since the Council enjoys a wide discretion in that context.