

Case T-164/95

Hedwig Kuchlenz-Winter

v

European Parliament

(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 - 1594

Summary of the Order

Actions for failure to act — Failure to act remedied prior to the initiation of proceedings — Inadmissible

(EC Treaty, Art. 175)

Where a defendant institution which has been requested to act defines its position in response to that request after the period of two months laid down by the second paragraph of Article 175 of the Treaty has expired but prior to the initiation of proceedings, the conditions prescribed by that article for the admissibility of an action for failure to act are not fulfilled.

The fact that the position taken by the institution does not satisfy the applicant is immaterial in that regard, since Article 175 refers to failure to act in the sense of failure to take a decision or to define a position, not the adoption of a measure different from that desired or considered necessary by the persons concerned.