

Case T-3/02

Schlüsselverlag J.S. Moser GmbH and Others

v

Commission of the European Communities

(Control of concentrations — Action for a declaration of failure to act —
Definition of a position — Manifest inadmissibility)

Order of the Court of First Instance (Third Chamber), 11 March 2002 . . . II - 1475

Summary of the Order

*Actions for failure to act — Failure to act brought to an end before proceedings
initiated — Inadmissible*

(Arts 232 EC and 233, first para., EC)

An action for failure to act brought after the defendant institution has defined its position for the purposes of Article 232 EC is manifestly inadmissible since the failure to act no longer subsists. A judgment which, in such circumstances, found that there had been a failure to act on the part of the institution could not give rise to the

measures for compliance referred to in the first paragraph of Article 233 EC.

(see paras 28-29)