

Case T-330/94

Salt Union Ltd
v
Commission of the European Communities

(State aid — Refusal of the Commission to propose ‘appropriate measures’ pursuant to Article 93(1) of the Treaty — Action for annulment — Inadmissible)

Judgment of the Court of First Instance (Third Chamber, Extended Composition), 22 October 1996 II - 1477

Summary of the Judgment

Actions for annulment — Actionable measures — Refusal of the Commission to propose appropriate measures pursuant to Article 93(1) of the Treaty — Excluded (EC Treaty, Arts 93(1) and 173)

When the Court is considering whether an action for the annulment of a negative decision of an institution is admissible, that decision must be appraised in the light of the nature of the request to which it constitutes

a reply. Where, in response to a request made by an undertaking, the Commission refuses to propose to the government of a Member State appropriate measures pursuant to Article 93(1) of the Treaty concerning a

general aid scheme, such a refusal is not an act amenable to an action under Article 173 of the Treaty since the act requested cannot be challenged under that provision.

Such an act does not constitute a measure which produces binding legal effects and is such as to affect the interests of that undertaking, since according to the actual wording of Article 93(1) of the Treaty, appropriate measures are merely proposals which the State concerned is not bound to adopt.