



## Reports of Cases

**Case C-196/12**

**European Commission**  
**v**  
**Council of the European Union**

(Action for failure to act — Annual adjustment of the remuneration and pensions of officials and other servants of the European Union — Staff Regulations — Adjustment of correction coefficients — Council decision — Refusal to adopt the Commission's proposal — Failure to act — Inadmissibility)

Summary — Judgment of the Court (Grand Chamber), 19 November 2013

*Action for failure to act — Failure to act — Meaning — Failure to act — Measure not providing satisfaction — Council Decision rejecting a proposal for a regulation — Not included*

(Art. 265 TFEU)

An action for failure to act is based on the premise that unlawful inaction on the part of an institution makes it possible, particularly for other institutions, to bring an action before the Court seeking a declaration that the failure to act is contrary to the FEU Treaty. Article 265 TFEU covers a failure to take a decision or to define a position, and not the adoption of a measure different from that sought or considered necessary by the applicant.

In that regard, a decision formally adopted by the Council rejecting a Commission proposal for a regulation, which is an act against which an action can be brought under Article 263 TFEU and which was published in series L of the Official Journal of the European Union, the series which contains EU legislation, is a definition of a position for the purposes of Article 265 TFEU.

(see paras 22-26)