

Case 60/81 International Business Machines (IBM) v Commission [1981] ECR 2639

Facts: The applicant wanted a Commission letter notifying it of competition proceedings against it annulled. The letter included a statement of objections which purported to require a response within a specified time frame. The Commission argued that the letter was not challengeable under Art. 263 TFEU.

Held: The letter was merely the initiation of the competition procedure and a preliminary document leading to the real decision at a later stage. Nevertheless, the Court was prepared to look at the substance of the measures in question. Any measure the legal effects of which are binding on, and capable of affecting the legal interests of the applicant is an act of decision which may be the subject of an action for annulment under Art. 263 TFEU. Despite this, the statement of objections did not alter the applicant's legal position. Preparatory measures could not be subject to judicial review.