

Action brought on 17 January 2017 — Barnett v EESC

(Case T-23/17)

(2017/C 104/70)

*Language of the case: French***Parties**

Applicant: Inge Barnett (Roskilde, Denmark) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Economic and Social Committee

Form of order sought

The applicant claims that the Court should:

- first of all, annul the decision of 21 March 2016, adopted pursuant to the judgment of the Civil Service Tribunal of 22 September 2015, excluding the applicant from early retirement without reduction of her pension rights;
- in the alternative, order the European Economic and Social Committee to pay to the applicant a sum of EUR 207 994,14 in respect of material damage suffered by her plus default interest calculated from the due date of the amounts payable, at the rate fixed by the European Central bank (ECB) for main refinancing operations, increased by 3,5 points and a lump sum of EUR 25 000 in respect of the non-material harm suffered by her;
- in any event, order the European Economic and Social Committee to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging infringement of Article 266 TFEU, in so far as the defendant failed to take account of the grounds of the judgment of the Civil Service Tribunal of 22 September 2015, *Barnett v EESC* (F-20/14, EU:F:2015:107) ('the CST judgment'), for the purposes of adopting enforcement measures. In particular, it is apparent from the grounds for the contested decision that the defendant diverged from the criteria set out in its general implementing provisions (GIP) in order to carry out the alleged re-examination of the applicant's application. In any event, the contested decision does not remedy the unlawfulness found by the Civil Service Tribunal, namely the lack of identification of the interest of the service in the GIP of the EESC.
2. Second plea in law, alleging that the contested decision is vitiated by several manifest errors of assessment of the interest of the service allegedly existing in 2013.
3. Third plea in law, raised in the alternative, alleging that the EESC is not competent to adopt a new decision relating to the grant of early retirement without reduction of pension rights following the deletion of article 9(2) of Annex VIII to the Statute, by Regulation No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ 2013 L 287, p. 15). As a consequence, as a result of the unlawfulness found in the CST judgment, the applicant was definitively deprived of the possibility of benefitting from the measure at issue. It is, therefore, necessary to fully compensate her.