And, giving judgment itself,

— annul the decisions contained in the pension receipts for the month of June 2014 by which the correction coefficient applicable to the appellants' pensions is reduced from 1 January 2014,

— order the Commission to pay the costs of the proceedings at both instances.

Pleas in law and main arguments

In support of the appeal, the appellants rely on two grounds of appeal.

1. First ground of appeal, alleging that the Civil Service Tribunal (CST) erred in law by interpreting the clear and precise provisions of the Staff Regulations of Officials of the European Union ('the Staff Regulations') in the light of the alleged 'real intention of the legislature' as to the scope of the suspension of the update mechanism, in 2013 and 2014, of pensions and remuneration. In doing so, the CST made an interpretation *contra legem* of Article 65(4) of the Staff Regulations and of its rules for implementing, set out in Annex XI of those Staff Regulations.

2. Second ground of appeal, alleging that the CST erred in law, in so far as the conditions as laid down in the Staff Regulations to carry out the intermediate update at issue, provided for in Annex XI of the Staff Regulations, had not been met and that the Commission, by carrying out that update, had misused its powers. After finding, in the judgment under appeal, that the previous correction coefficient had been incorrectly calculated in Council Regulation (EU) No 1416/2013 of 17 December 2013 adjusting with effect from 1 July 2013 the correction coefficients applied to the remuneration and pensions of officials and other servants of the European Union, the CST erred in law by holding that the principle of equal treatment authorised the appointing authority to carry out the intermediate update at issue, contrary to the doctrine of withdrawal of illegal administrative acts that give rise to a right or similar benefits.

Appeal brought on 14 April 2016 by Ingrid Fedkte against the order of the Civil Service Tribunal of 5 February 2015 in Case F-107/15, Fedkte v EESC

(Case T-157/16 P)

(2016/C 191/57)

Language of the case: French

Parties

Appellant: Ingrid Fedkte (Wezembeek-Oppem, Belgium) (represented by: M.- A. Lucas, lawyer)

Other party to the proceedings: European Economic and Social Committee

Form of order sought by the appellant

The appellant claims that the General Court should:

— annul the order of 5 February 2016 of the Civil Service Tribunal (Second Chamber) in Case F-107/15;

— refer the case back to the Civil Service Tribunal for a ruling on the substance of the action;

— make an appropriate order as to costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law.

1. First plea in law, alleging an error in law and/or an inadequate statement of reasons vitiating the contested order, in that the Civil Service Tribunal (CST) held that, in paragraphs 19 to 21 and 25 of that order, both in the case of a request for review of a decision which has not been contested within the prescribed time-limit and in that of a request which indirectly calls into question such a decision, for a fact relied on in support of the request to be considered as 'new', it is a requirement that neither the appellant nor the administration was, or could have been, aware of it at the time of the adoption of the decision which has become final, and the CST has applied that principle in paragraphs 27 to 32 of the order, although according to settled case-law the lack of awareness of the fact relied on is not required for requests for review.

2. Second plea in law, alleging an error in law and/or distortion of the material in the file and inadequate reasoning that vitiated the contested order, in that the CST held that, in paragraph 32 of that order, on the grounds that no new and substantial fact substantiated the request for review, the pre-litigation procedure had not followed the normal course and the claims made against the decision of 30 September 2014 and the dismissal of the complaint of 22 April 2015 were inadmissible; whereas the purely confirmatory nature of those decisions presupposed not only that there had been no prior review but also that the decisions contained no new element, and that, as the applicant had claimed, the decision of 30 September 2014 included a new element compared to that of 7 April 2014, just as the decision of 22 April 2015 did compared to that of 30 September 2014.

3. Third plea in law, alleging an error in law and/or distortion of the material in the file and failure to answer the appellant's line of argument that vitiated the contested order, in that the CST held that, in paragraph 26 of that order, the 'new' nature of the fact relied on in support of the request for review presupposed that the parties were not, or could not have been, aware of it, and that the appellant had not mentioned in her request the new and substantial facts that were capable of substantiating the submission of the request, but invoked, by reference to her head of unit's note, the amendment of the Staff Regulations; although lack of awareness of the fact relied on was not necessary in the present case, the appellant had, as she had claimed, indicated in her request for review itself the broadening of the legal basis and, by reference to her head of unit's note, that the administration had not paid sufficient attention to the wording of the new Staff Regulations, which amounted to new and substantial elements.

4. Fourth plea in law, alleging infringement of the rules of evidence and of the principle of objectivity, in that the CST held that, in paragraph 28 of the contested order, the appellant had not given any indication regarding the date on which the administration had, or could have, become aware of the future departure on maternity and parental leave of her colleague and, in paragraph 29 of that order, that it was not inconceivable that this could have been the case on 7 April 2014, taking into account the duration of leave of that kind as set out in the Staff Regulations, the predictability long in advance of the date of birth and the custom of informing the department of a long-term absence as soon as possible, inferring from it in paragraph 30 to 32 of the order that the appellant had not demonstrated that she herself nor the administration were not, or could not have been, aware of the future absence of her colleague on 7 April 2014, that her request for re-examination was not substantiated by any new and substantial fact and her claims were inadmissible; whereas evidence of a negative fact and on the part of a third party was impossible to adduce, it was for the EESC to state the date of the request for leave, and the CST could not act on the basis of successive presumptions, nor on a mere assumption in order to reverse the burden of proof and substantiate its findings.

Appeal brought on 14 March 2016 by Inge Barnett, Suzanne Ditlevsen, Annie Madsen against the judgment of the Civil Service Tribunal of 5 February 2016 in Case F-66/15, *Barnett and others* v *EESC*

(Case T-158/16 P)

(2016/C 191/58)

Language of the case: French

Parties

Appellants: Inge Barnett (Roskilde, Denmark), Suzanne Ditlevsen (Copenhagen, Denmark), Annie Madsen (Frederiksberg, Denmark) (represented by: S. Orlandi and T. Martin, lawyers)

Other party to the proceedings: European Economic and Social Committee (EESC)

Form of order sought by the appellant

The appellants claim that the Court should:

— set aside the judgment of the Civil Service Tribunal in Case F-66/15, *Barnett and others* v *EESC*;