

4. Fourth plea in law, alleging an error of assessment and breach of articles 12a and 24 SR.

On the request for compensation, the applicant exposes the fault committed by the defendant, the damage she suffered and the link between the fault and the damage.

Action brought on 3 April 2020 — JD v EIB

(Case T-166/20)

(2020/C 201/46)

Language of the case: English

Parties

Applicant: JD (represented by: H. Hansen, lawyer)

Defendant: EIB

Form of order sought

The applicant claims that the Court should:

- annul the decision (i) requiring the applicant to sign an addendum to his employment contract waiving certain social security rights and (ii) preventing the applicant from entering into the EIB's service unless he sign said addendum;
- thus order that the defendant withdraw its letter proposing said addendum and the associated demand that the applicant sign the addendum in question as a precondition for entry into service;
- order the defendant to allow the applicant to enter into the service of the EIB with retroactive remuneration and benefits as from the contractual date of entry into service;
- order that the costs shall be borne exclusively by the defendant; and
- reserve any and all rights of the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging violation of data protection requirements.

- It is argued that the defendant infringed Article 15(1)(c) of Regulation (EU) 2018/1725. (1) The defendant used the answers to a medical questionnaire to restrict coverage in the case of death and invalidity, even though the data protection notice in the questionnaire did not state that it might be used for such a purpose.

2. Second plea in law, alleging that there is no legal basis for the exclusion from coverage sought by the EIB.

- It is argued that the defendant infringed Article 33d of Staff Regulations II and Article 9.1.2 of the Staff Rules. The legal basis relied on by the EIB (Article 6-1 of the Pension Scheme Regulations) cannot reasonably be construed as proposed by the EIB. Said construction fails to take into account the definition and stated purpose of the pre-employment medical assessment as defined in Article 2.1.1.A of Annex X to the Staff Rules.

3. Third plea in law, alleging that there is no legal basis for the requirement to sign an addendum.

- It is argued that the defendant infringed Article 13 of Staff Regulations II. There is no rule in the body of EIB regulations requiring a person who has concluded an employment contract with the EIB and been declared fit to work by the EIB's occupational health physician to sign an addendum to his employment contract waiving certain social security rights (*in specie* coverage for death and invalidity).

4. Fourth plea in law, alleging discrimination and in particular infringement of Articles 21(1) and 34(1) of the Charter of Fundamental Rights of the European Union.

- It is argued that, by virtue of the criticised decision, the defendant is seeking to withhold essential social security rights (*in specie* coverage in the event of death and invalidity) from the applicant on the basis of perceived genetic features and/or an alleged disability. By requiring that the applicant waive said social security rights under the threat of termination of his employment contract, the EIB has acted in violation of the applicant's fundamental rights. The defendant's behaviour is discriminatory in that it seeks to restrict the applicant's fundamental social security rights based on an arbitrary reason (the existence of a 'very/extremely low' risk of invalidity in the future) and for an arbitrary time period (5 years).

(¹) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

Action brought on 7 April 2020 — JE v Council and Conference of the Representatives of the Governments of the Member States

(Case T-180/20)

(2020/C 201/47)

Language of the case: English

Parties

Applicant: JE (represented by: N. Forwood, QC)

Defendants: Council of the European Union and Conference of the Representatives of the Governments of the Member States

Form of order sought

The applicant claims that the Court should:

- partially annul the Declaration of the Representatives of the Governments of the Member States on the consequences of the withdrawal of the United Kingdom from the European Union for the Advocates-General of the Court of Justice of the European Union, dated 29 January 2020, as published by the Council under Council document reference XT 21018/20;
- order the defendants to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant contends that the act adopted by the defendants should be partially annulled on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties and rules of law relation to their application, and for misuse of powers.
