

Case T-87/91

Michael Boessen

v

Economic and Social Committee of the European Communities

(Official — Admissibility — Time-limit for bringing an action —
Invalidity pension — Calculation)

Judgment of the Court of First Instance (Third Chamber), 11 March 1993 II - 236

Summary of the Judgment

Officials — Actions — Prior complaint through official channels — Time-limits — Applicability to a request for recalculation of pension — Time-barred — Starting time running again — Conditions — New fact

(Staff Regulations, Arts 90 and 91; Annex VIII, Art. 41, first para.)

An official who has submitted a request for recalculation of his pension, relying on the first paragraph of Article 41 of Annex VIII to the Staff Regulations, may lodge a complaint and, if necessary, bring an action against the refusal of his request, but he must comply with the time-limits provided for in Articles 90 and 91 of the Staff Regulations.

With regard to the manner in which a pension is calculated, it is the notification of the breakdown of his pension entitlement to the person concerned by the administration which causes those time-limits to begin to run. The breakdown, which fixes the rate and the amount of the pension and clearly shows the provisions on the basis of which the enti-

tlement was calculated, constitutes the act adversely affecting the official.

Once the time-limits have expired, only the existence of a new fact could start time running again. The fact that the person concerned disputes, for the first time in his request for recalculation, the applicability of the provisions of the Staff Regulations on which the calculation of his pension was based cannot be a new fact since it is solely based on a different interpretation of a rule of law and not on any change in the applicant's situation.