The Banking Union and Union Courts: overview of cases as at 21 January 2019

Introduction

This list seeks to enhance the transparency of the cases pending before, or decided by, the Union Courts in the area of the EU banking union and to offer a tool to academics and practitioners to search these cases. (Occasionally, proceedings before Member State constitutional courts may be included.) The information is taken from the Curia website and from the Official Journal of the European Union. (Occasionally, references to other sources are included.) Where possible, hyperlinks to EU legal acts, notably to the Single Rulebook, are provided.

Banking union in the Euro Area (EA) is the term used for the attribution of supervision and resolution competences over banks (credit institutions) to the European Union (EU) level – powers which, previously, were exercised at national (i.e., Member State) level. Banking union consists of three elements: the Single Supervisory Mechanism (SSM), effective as of 4 November 2014; the Single Resolution Mechanism (SRM), effective as of 1 January 2016; and a single deposit insurance system, which has been proposed and is pending in the legislative process (European Deposit Insurance Scheme, or EDIS). The Single Rulebook, largely applying to the supervision of credit institutions in the entire EU, underpins the actions of the supervisory and resolution authorities, notably the European Central Bank (ECB) and the Single Resolution Board (SRB).

The list below focuses on judicial proceedings concerning banking union, as it seeks to enhance the transparency of the latter's functioning and of the review of decision-making by its authorities. Readers should note that administrative and judicial review of legal acts adopted by the European Supervisory Authorities – the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) – , which work EU-wide, are not included here. Neither are administrative review decisions by the SRB Appeals Panel or by the ECB's Administrative Board of Review (ABoR). For the Appeals Panel, reference is made to the SRB website; for the ABoR to the references in decisions of the European Court of Justice to its opinions.

Disclosure and disclaimer

Every effort has been undertaken to provide accurate information at the moment of publication. Nevertheless, no responsibility can be accepted for any errors or omissions.

René Smits is an Alternate Member of the Administrative Board of Review (ABoR), which independently reviews prudential decisions of the European Central Bank (ECB). In this capacity, he may have been involved in cases which subsequently reach the Court in Luxembourg included in this list. He is a part-time Professor of the Law of the Economic and Monetary Union (EMU) at the University of Amsterdam and a consultant on EMU law and and European University Institute.

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It is in our academic capacities that we have worked on this list. Neither the ECB nor the SSM is involved. Naturally, the Court of Justice is not responsible for this list either.

Comments and suggestions are welcome (rs@renesmits.eu or Federico.Della@EUI.eu).

1. Actions for annulment against ECB supervisory decisions

Please note that actions against the ECB regarding the determination of failing or likely to fail of *Banco Popular Español S.A.*, *ABLV Bank, AS* and *ABLV Bank Luxembourg, SA* are entered under the section devoted to the proceedings against the SRB.

No.	Case
1.	Case T-122/15, **Landeskreditbank Baden-Württemberg – Förderbank v ECB**, *closed* [request for annulment of the ECB decision of 5 January 2015 classifying the applicant as a significant entity within the meaning of Article 6(4) of the SSM Regulation; post-ABoR proceedings] Judgment of 16 May 2017 ECLI:EU:T:2017:337 (press release). Appeal: Case C-450/17 P, *pending* Opinion of the Advocate General Hogan of 5 December 2018 ECLI:EU:C:2018:982
2.	Case T-712/15, **Crédit Mutuel Arkéa v ECB,** *closed* [request for annulment of the ECB decision of 5 October 2015 imposing prudential requirements on the applicant (SREP decision) – issue: ECB competence ("conditions permitting consolidated supervision at the level of *Crédit Mutuel* as a whole have not been met") and the governance structure of the group] Judgment of 13 December 2017 ECLI:EU:T:2017:900 (press release). The judgments in Cases T-712/15 and T-52/16 are summarised, and the seven most important points derived from them identified, in a short note by René Smits. Appeal: Case C-152/18 P, ***Crédit Mutuel Arkéa v ECB***, *pending*
3.	Case T-52/16, **Crédit Mutuel Arkéa v ECB**, *closed* [request for annulment of the ECB decision of 4 December 2015 – issue: ECB competence and the governance structure of the group; pleas essentially identical or similar to those in Case T-712/15] Judgment of 13 December 2017 ECLI:EU:T:2017:902 (press release) The judgments in Cases T-712/15 and T-52/16 are summarised, and the seven most important points derived from them identified, in a short note by René Smits. Appeal: Case C-152/18 P, **Crédit Arkéa v ECB**, *pending*
4.	Case T-133/16, **Caisse régionale de crédit agricole mutuel Alpes Provence v ECB,** *closed* [alleged misconstruction of Article 13 CRD IV (*Effective direction of the business and place of the head office*) and of Articles L 511-13 (four eyes principle) and L 511-52 (sufficient time allocation requirement for directors of a credit institution) of the French *Code monétaire et financier*; infringement of Articles 13 and 88 (*Governance arrangements*) CRD IV, and of Article L 511-58 of the French *Code monétaire et financier* (on the cumulative functions of the Chair and the CEO) in an ECB decision of 29 January 2016] Hearing held on 23 October 2017

	Judgment of 24 April 2018 in Joined Cases T133/16 to T-136/16 (*Caisse régionale de crédit agricole mutuel Alpes Provence, Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées, Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres, Caisse régionale de crédit agricole mutuel Brie Picardie v ECB*). ECLI:EU:T:2018:219 Summary by René Smits
5.	Case T-134/16, **Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées v ECB,** *closed* [issues as in Case T-133/16; judgment of 24 April 2018; see under 5]
6.	Case T-135/16, **Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres v ECB,** *closed* [issues as in Case T-133/16; judgment of 24 April 2018; see under 5]
7.	Case T-247/16, **Trasta Komercbanka and others v ECB**, renamed into **Fursin and Others v ECB,** *pending* [for issues, see subsequent case] Order of 12 September 2017 rejecting the claim of *Trasta Komercbanka* as indamissible and upholding the shareholders' claim as admissible ECLI:EU:T:2017:623. The Order on admissibility is under threefold appeal: by the ECB (Case C-663/17 P), by the Commission (Case C-665/17 P) and by *Trasta Komercbanka* (Case C-669/17 P). The appeal grounds are summarized here.
8.	Case T-698/16, **Trasta Komercbanka and others v ECB**, *pending* [in each case, six pleas against withdrawal of license from a Latvian bank alleging, inter alia, that the ECB violated Article 24 SSM Regulation in connection with ABoR's review of an earlier decision, relied on inaccurate documents submitted by the Latvian supervisory authority and violated the principles of proportionality (alternative measures allegedly available), equal treatment, legitimate expectations and legal certainty, committed *détournement de pouvoir*, violated procedural rules relating to the withdrawal of an authorisation (Article 83 SSM Framework Regulation), and violated its independence (recital 19 of the preamble and Article 19 SSM Regulation). See, also, winding-up measure announced pursuant to Directive 2001/24/EC in the Official Journal, C 123/2, 7 April 2016] For the Order of 12 September 2017 and the subsequent appeals, see the previous case.
9.	Case T-733/16, **Banque Postale v ECB**, *closed* [issues as in case T-745/16] Judgment of 13 July 2018 ECLI:EU:T:2018:477 For an overview of the Court's reasoning in this judgment, see the summary by René Smits of the judgment in Case T-745/16; ECLI:EU:T:2018:476.
10.	Case T-745/16, **BPCE v ECB**, *closed* [request for annulment of ECB Decision of 24 August 2016 dismissing the application for authorisation to exclude public-sector exposures from the calculation of the leverage ratio; alleged incorrect assessment of prudential risk associated with regulated savings: *Livret A*, deposits with the Caisse des Dépôts et

	Consignations (CDC); incorrect application of CRR, rendering Article 429(14) CRR[1] ineffective] Judgment of 13 July 2018 ECLI:EU:T:2018:476 For an overview of the Court's reasoning in this judgment, see the summary by René Smits.
11.	Case T-751/16, **Confédération Nationale du Crédit Mutuel v ECB**, *closed* [issues as in case T-745/16] Order of 16 May 2017 giving Finland leave to intervene in support of the ECB; initially, only non-confidential versions of the acts of the proceedings to be shared with Finland ECLI:EU:T:2017:361 Judgment of 13 July 2018 ECLI:EU:T:2018:475 For an overview of the Court's reasoning in this judgment, see the summary by René Smits of the judgment in Case T-745/16.
12.	Case T-757/16, **Société générale v ECB,** *closed* [issues as in case T-745/16] Judgment of 13 July 2018 ECLI:EU:T:2018:473 For an overview of the Court's reasoning in this judgment, see the summary by René Smits of the judgment in Case T-745/16.
13.	Case T-758/16, **Crédit Agricole v ECB**, *closed* [issues as in case T-745/16] Judgment of 13 July 2018 ECLI:EU:T:2018:472 For an overview of the Court's reasoning in this judgment, see the summary by René Smits of the judgment in Case T-745/16.
14.	Case T-768/16, **BNP Paribas v ECB**, *closed* [issues as in case T-745/16] Judgment of 13 July 2018 ECLI:EU:T:2018:471 For an overview of the Court's reasoning in this judgment, see the summary by René Smits of the judgment in Case T-745/16.
15.	Case T-913/16, **Fininvest and Berlusconi v ECB**, *pending* [request for annulment of ECB Decision of 25 October 2016 rejecting the acquisition by *Finanziaria d'investimento Fininvest S.p.A.* of a qualifying holding in Banca Mediolanum on the ground that the proposed acquirers did not meet the reputation requirements laid down by applicable legislation] See also below, under 4. Preliminary ruling proceedings on EU Banking Law: Case C-219/17, Berlusconi and Fininvest, ***closed***
16.	Case T-321/17, **Niemelä e a. v ECB**, *pending* [applicants Heikki Niemelä and Mika Lehto, Nemea plc, Nevestor SA and Nemea Bank plc request to (i) annul the ECB's decision of 23 March withdrawing the authorisation of Nemea Bank plc as a credit institution; (ii) suspend the application of the ECB's decision in view the irreparable damage that the immediate and continued application of the decision is alleged to have on Nemea's stakeholders, principally its depositors,

	employees and shareholders, allowing or otherwise requiring the shareholders of Nemea to divest their holding in the bank; (iii) order the ECB to compensate the applicants: EUR 10 million with legal interest from 23 March 2017, for damage suffered as a result of the decision; Applicants allege, *inter alia*, incorrect and insufficient reasoning, a manifest error of assessment, misuse of powers and failure to respect the proportionality principle]
17.	Case T-768/17, **Comprojecto-Projectos e Construções and Others v ECB**, *pending* [request for annulment of the ECB's alleged refusal to act, the ECB alleged decision not to initiate infringement proceedings (against the *Banco de Portugal* or against the credit institution?) and to annul acts by the *Banco de Portugal* and its officials "who took a position on the complaints and claims presented between 26 June 2013 and 22 April 2015". They request the General Court to issue a judgment which allows them to proceed against Portuguese public actors (the central bank, the State and the Public Prosecutor's Office) and request compensation of EUR 4.6 million against the ECB, to be paid by BCP. The applicants' claims in law relate to infringement of the obligation to state reasons laid down in Article 41(2)(c) of the Charter, violation of rights under the Directive 2005/29/EC on unfair commercial practices (Directive 2005/29/EC), breach of the duty of impartiality, misuse of powers and breach of essential procedural requirements by what applicants call the ECB' "agent", Banco de Portugal. The claim alleges money laundering, fraud or tax evasion on the part of BCP to the detriment of the EU budget and implies that OLAF, the anti-fraud arm of the Commission, should have been involved. The applicants refer to administrative action brought on 27 October 2015 and currently pending before the *Tribunal Administrativo e Fiscal de Sintra*]
18.	Case T-798/17**, De Masi and Varoufakis v ECB**, *pending* [Claim by Fabio De Masi (MEP for *Die Linke*, German leftist party) and Yanis Varoufakis (former Greek Minister of Finance) for annulment of the ECB's decision, notified by letter of 16 October 2017, by which the applicants' application for access to the ECB document *Responses to questions concerning the interpretation of Article 14.4 of the Statute of the ESCB and of the ECB* of 23 April 2015 was rejected. Please in law: incorrect application of the second indent of Article 4(2) of Decision ECB/2004/3 of 4 March 2004 on public access to ECB documents (ECB Public Access Decision) as, according to applicants publication of the legal opinion in question would not undermine the ECB's legal advice and that there is an overriding public interest in its disclosure; alleged "lack of consideration" and inadequate reasoning; incorrect application of Article 4(3) of the ECB Public Access Decision — as, publication of the legal opinion "would not undermine its internal use as part of deliberations and preliminary consultations within the ECB, or for exchanges of views between the ECB and NCBs"]
19.	Case T-15/18, **OCU v ECB**, *pending* [request for annulment of the ECB decision of 17 November 2017 dismissing the applicant's 'confirmatory application for access to ECB documents' and for an order for the disclosure of the documents requested, relating to the resolution of *Banco Popular Español*. The applicant relies on a single plea in law, based on the right to good administration (Article 41(2) of the Charter), namely, in the form of access to documents for the proper exercise of the right of defence]
20.	Case T-827/17, **Aeris Invest v ECB**, *pending* [request for annulment of the ECB decisions (ECB LS/MD/17/405, LS/PT/17/406 and LS/MD/17/419) of 7 November 2017 related to confirmatory requests for access to

	ECB documents. In support of the action, the applicant relies upon four pleas in law: (i) the contested decisions infringe Article 4(1)(c) of the ECB Public Access Decision as they deny access to information on the grounds that the documents are confidential documents covered by the principle of professional secrecy applicable to the institutions; (ii) Decision LS/PT/17/406 infringes the second and sixth indents of Article 4(1)(a) of the ECB Public Access Decision as it states that disclosure of *Banco Popular*'s use of ELA (emergency liquidity assistance) in the days preceding its resolution and of information regarding its liquidity situation and capital ratios could in fact specifically sap the efficiency of the monetary policy and financial stability of the Union or of a Member State; (iii) Decision LS/PT/17/406 and Decision LS/MD/17/419 infringe the first indent of Article 4(2) of the ECB Public Access Decision by stating that the documents and information requested are commercially sensitive material that could affect the commercial interests of the *Banco Popular* and *Banco Santander*; (iv) the ECB has infringed Article 47 of the Charter by denying the applicant access to the documents upon which the ECB based its decision to declare the resolution of *Banco Popular*]Order of 27 July 2018 accepting the request of *Banco Popular Español* to intervene in the proceedings in support of the ECB ECLI:EU:T:2018:512
21.	Case T-442/18, **Aeris Invest v ECB,** *pending* [request to annul the ECB Decisions of 8 May and 9 February 2018. In support of the action, the applicant relies on five pleas in law: (i) failure to give adequate reasons for the ECB's decisions refusing access to the documentation concerned; (ii)the contested decisions infringe Article 4(1)(c) of the ECB Public Access Decision, in so far as those decisions refuse the applicant access to the information requested on the ground that the documents are, in whole or in part, covered by a general presumption of nonaccessibility as they are confidential documents covered by the professional secrecy applicable to the institutions; (iii) the contested decisions breach Article 4(1)(c) of the ECB Public Access Decision, in so far as those decisions refuse the applicant access to the information requested on the ground that the documents are, in whole or in part, covered by the professional secrecy applicable to the institutions, when they are required in judicial proceedings and such refusal prevents or impedes the exercise of the public judicial function; (iv) the contested decisions breach Article 4(1)(a), second and sixth indents, of the ECB Public Access Decision, in so far as they assert that the disclosure of the information requested may prejudice the banking system in general; (v) the contested decisions breach Article 4(2), first indent, of the ECB Public Access Decision, in asserting that the disclosure of the documents and information requested may affect the business interests of Banco Santander and have an impact on future inspections]
22.	Case T-143/18, **Société Générale v ECB**, *pending* [request for annulment of Article 4 of an ECB decision of 19 December 2017 and Article 3 of its Annex A, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The applicant relies on four pleas in law: (i) there is no legal basis for the contested decision as the ECB has no jurisdiction to impose a prudential requirement of general scope and has not conducted an individual and detailed assessment of the applicant's situation as required by the applicable legislation; (ii) the contested decision is vitiated by an error of law in that the ECB wrongly interpreted the EU legislation establishing the possibility for credit institutions to use irrevocable payment commitments and, consequently, rendered those provisions ineffective; (iii) the contested decision is vitiated by a manifest error in the assessment of the risks allegedly posed by the irrevocable payment commitments having regard to Article 16

	of the SSM Regulation; (iv) failure to state reasons, in so far as the ECB is, it is claimed, subject to an enhanced obligation to state reasons and the contested decision was inadequately reasoned]
23.	Case T-144/18, **Crédit Agricole and others v ECB**, *pending* [request for annulment of Article 9 of decision of an ECB of 19 December 2017 and Article 3 of its Annex A, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The please in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Sociéte Générale v ECB*]
24.	Case T-145/18, **Confédération nationale du Crédit mutuel and others v ECB**, *pending* [request for annulment of Article 8 of an ECB decision of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*]
25.	Case T-146/18, **BPCE and others v ECB**, *pending* [request for annulment of Article 4 of an ECB decision of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*]
26.	Case T-149/18, **Arkéa Direct Bank and others v ECB**, *pending* [request for annulment of Article 8 of an ECB decision of of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*]
27.	Case T-150/18, **BNP Paribas v ECB**, *pending* [request for partial annulment of Article 9 of an ECB decision of 19 December 2017 in so far as it imposes a deduction from the irrevocable payment commitments subscribed with the Single Resolution Fund (SRF), national resolution funds and national Common Equity Tier I deposit guarantee schemes, on an individual, sub-consolidated and consolidated basis. The applicant relies on four pleas in law: (i) the contested decision lacks a legal basis in that the ECB made use of its supervisory powers to impose a measure of general scope that falls within the competence of the legislature and exceeded its powers under Article 4(1)(f) and Article 16 of the SSM Regulation; (ii) the contested decision is vitiated by an error of law in that the ECB made an interpretation contrary to the legislative intent of the EU legislation authorising credit institutions to use irrevocable payment commitments in order to fulfil part of their obligations vis-à-vis the national resolution funds, the SRF and the national deposit guarantee schemes, thus rendering the relevant provisions ineffective. The ECB, it is claimed, also based its decision on a misreading of the EU and national legal transposition framework applicable to irrevocable payment commitments; (iii) breach of the principle of proportionality; (iv) the contested decision is based on an error of assessment and infringes the principle of good administration]
28.	Case T-203/18, **VQ v ECB**, *pending*

	[request for annulment of the decision of 14 March 2018 by which the ECB imposed a penalty of EUR 1.600.000 for having repurchased its own shares without prior permission and ordered the publication of this decision on its website. The applicant[5] relies on the alleged absence of an infringement for the relevant period as the capital conservation buffer, which is governed by Article 129 of the CRD IV, was not in force nor determined until afterwards and therefore claims that the ECB breached Article 18(1) of the SSM Regulation and Article 49(1) of the Charter by imposing an administrative pecuniary penalty in the absence of a directly applicable rule of EU and national law. The applicant also alleges breach of Article 132(1)(b) of the SSM Framework Regulation, as the contested decision orders the publication of the administrative pecuniary penalty on a non-anonymised basis and claims that Article 18(6) of the SSM Regulation is unlawful as it prescribes publication of an administrative pecuniary penalty even if the applicant intends to bring a court action against it. On 26 March 2018, the applicant made an application for interim measures requesting the President of the Court to suspend the publication of the decision, or, alternatively, to suspend its publication without anonymization of the applicant's name and all other measures necessary to protect its rights until the Court adjudicates on the action for annulment. Following the question of the President of the General Court of 28 March 2018, the ECB replied on 11 April 2018 that it would not publish the contested decision during the interlocutory proceedings] Order of 3 May 2018 dismissing the application for interim measures for lack of urgency ECLI:EU:T:2018:261 Summary by Ioannis Asimakopoulos
29.	Case T-345/18, **BNP Paribas v ECB**, *pending* [request for annulment of the ECB decision of 26 April 2018 which imposed a deduction of the irrevocable payment commitments ('IPCs') taken out with the Single Resolution Fund ('SRF'), national resolution funds and deposit guarantee schemes ('DGS') from CET1 capital. The applicant relies on four pleas in law: (i) lack of legal basis. In this regard, the applicant submits that the contested decision creates a new rule of general application which goes clearly beyond the legal framework governing the defendant's exercise of its prudential supervision tasks. Furthermore, by adopting a decision taken without prior analysis of the solvency and liquidity risk and without regard for the applicant's risk profile, the defendant exceeded the powers laid down in Articles 4(1)(f) and 16 of the SSM Regulation. Finally, the applicant submits that Article 16(1)(c) of the SSM Regulation does not authorise the ECB to act to ensure 'better information on risks' and that Articles 4(1)(f) and 16(2)(d) of the SSM Regulation do not authorise the adoption of prudential measures in respect of off-balance-sheet items; (ii) error of law in so far as the defendant misinterpreted the EU legislation establishing the possibility for credit institutions to make use of IPCs to fulfil part of their obligations vis-à-vis resolution funds and deposit guarantee schemes; (iii) infringement of the principle of proportionality, in so far as the imposition of a deduction of IPCs from its own funds is inappropriate and unnecessary in respect of a risk which is purely hypothetical and already covered. According to the applicant, that measure is disproportionate in the light of the objective set by the ECB itself, which is to 'provide adequate information on financial risks'; (iv) manifest error of assessment and failure to observe the principle of sound administration. The applicant claims that, by choosing to use an instrument (deduction from own funds) which is clearly unsuited to the objective that it purports to pursue (to provide adequate information on risks), the defendant has failed to observe the principle of sound administration, in so far as it has failed to draw the appropriate conclusions from its own assessments]
30.	Case T-351/18, **Ukrselhosprom PCF and Versobank v ECB,** *pending*

	[request for annulment of decision of 26 March 2018 withdrawing the banking licence of Versobank AS. The applicant relies on 11 pleas in law, including lack of competence, failure to make its own assessment of facts, violation of the right to be heard and of the principle of proportionality]
31.	Case T-451/18, **Triantafyllopoulos and Others v ECB,** *pending* [request to obtain compensation for damages due to harm suffered as shareholders of the '*Achaiki Syneteristiki Trapeza Syn. PE*' (the Achaiki Cooperative Bank) by its special liquidation, and which consists of the current actual loss, that is the value of the shares held by each of the applicants. The harm is claimed to have been caused by the inadequate auditing and supervision of the *Trapeza tis Ellados* (Bank of Greece, 'the BoG')[6] with respect to Achaiki Syneteristiki Trapeza in the period from 1999 until 2012, but also by the inadequate auditing and supervision of the ECB with respect to the BoG, and, through the latter but also directly, with respect to the *Achaiki Synetiristiki Trapeza*. In support of the action, the applicants rely on the following pleas in law: (i) "from the year 1999 and until the revocation of the licence of the *Achaiki Synetiristiki Trapeza* by the BoG, the various administrations pillaged the bank's assets, and diverted them to criminal purposes, wholly distinct from the lawful purposes. This took place without any ostensible adherence to the lawful procedures for the operation of a bank. The BoG is under national law the sole competent supervisory authority, with power to take all measures, for prevention, auditing and enforcement, to ensure that all that happened did not happen and did not lead to the dissipation of the bank's assets"; (ii) "Under Article 340(3) TFEU the ECB(...) is obliged to make good, in accordance with the general principles common to the laws of the Member States, any damage caused by it or by its servants in the performance of their duties." (iii) (...) the scale and degree of the harm that has been caused, together with the number of those harmed, can be used as a criterion in relation to whether the body involved has manifestly and seriously exceeded the limits of its discretion. It should also be pointed out that there is a sufficiently serious breach of EU law if the body has committed the fault when not exhibiting the normal degree of prudence and diligence. The ECB failed to fulfil its obligations under the Treaties and under its Statute to impose penalties on the BoG, because of its inadequate supervision of the *Achaiki Synetiristiki Trapeza*. The ECB for its part is responsible for checking whether the national banks of the Member States are operating in accordance with the provisions in the Treaties and in its Statute. In the event that it has not undertaken such a check we can speak of administrative inadequacies — infringement of the principle of sound management — which could be covered if the ECB had taken the appropriate measures to 'remind' the BoG of its duties under the Treaties and to make it known it that it is not permissible to leave credit institutions without supervision, because that jeopardises the monetary stability of the European Union, which is the basic raison d'etre of the ECB. The ECB had an obligation to review whether the BoG fulfilled its obligations as a member of the European System of Central Banks, and in the event that it found that those obligations were not fulfilled, the ECB should have adopted the appropriate measures, rather than do nothing."]
32.	Case T-564/18, **Bernis and Others v ECB**, *pending* [request for annulment of decision of 11 July 2018 withdrawing the banking licence of *ABLV Bank, AS*. The applicants relies on seven pleas in law: (i) the ECB incorrectly assumed that the conditions for a licence withdrawal were met; (ii) the ECB failed to take into account the discretionary nature of the decision; (iii) the ECB violated the principle of proportionality; (iv) the ECB committed a misuse of power; (v) the ECB's decision was not appropriately reasoned; (vi) the ECB violated essential procedural requirements; (vii) the ECB violated the *nemo auditur* principle] See, also, Cases T-281/18 (*ABLV Bank v ECB*) and T-280/18 (*ABLV Bank v SRB*).

33.	Case T-576/18, **Crédit agricole v ECB,** *pending* [request for annulment of ECB decision of 16 July 2018 imposing on the applicant an administrative penalty for continued breach of Article 26 (3) of the Regulation (EU) No 575/2013 (CRR) on the classification of CET1 instruments ('the contested decision'). The applicant relies on two pleas in law: (i) the contested decision is *ultra vires* because, in essence, the ECB erred in law in its interpretation of Article 26(3) of the CRR, which does not require establishments to obtain prior authorisation from the ECB in order to classify ordinary shares as Tier 1 capital. In the alternative, should the Court consider that classification of ordinary shares as Tier 1 capital without prior authorisation from the ECB constitutes a breach of Article 26(3) of the CRR, the applicant claims not to have committed any intentional or negligent breach in applying that provision and that the contested decision infringes the principle of legal certainty. In the further alternative, should the Court consider that a breach can be established and the applicant penalised, the applicant claims that, in the light of the lack of seriousness of the alleged breach and the cooperation of the applicant, the contested decision infringes the principle of proportionality. (ii) the ECB infringed the applicant's fundamental procedural rights in so far as it based the contested decision on complaints against which the applicant was unable to present its objections]
34.	Case T-577/18, **Crédit agricole Corporate and Investment Bank v ECB**, *pending* [request for annulment of ECB decision of 16 July 2018. In support of the action, the applicant relies on two pleas in law which are, in essence, identical to those relied on in Case T- 576/18]
35.	Case T-578/18, **CA Consumer Finance v ECB**, *pending* [request for annulment of ECB decision of 16 July 2018. In support of the action, the applicant relies on two pleas in law which are, in essence, identical to those relied on in Case T- 576/18]
36.	Case T-584/18, **Ukrselhosprom PCF and Versobank v ECB**, *pending* [request for annulment of the decision of 17 July 2018 withdrawing the banking licence of Versobank AS and the ECB cost order of 14 August 2018 regarding the internal administrative review. The applicant relies on 24 pleas in law, including, lack of competence, failure to make its own assessment of the facts, violation of the right to be heard and of the principle of proportionality]
37.	Case T-687/18, **Pilatus Bank v ECB,** *pending* [request for annulment of the ECB's decisions dated 10 September 2018 to the effect that any communication of Pilatus Bank plc to the ECB needs to be made through the "Competent Person" or include the "Competent Person's" approval as an attachment. In support of the action, the applicant relies on nine pleas in law, including lack of legal basis, violation of substantive and procedural rights of the applicant pursuant to the SSM Regulation, the Charter of Fundamental Rights and the rule of law, in particular the right to access to file, the right to make use of remedies, the right to be represented by external counsel and the right to the confidentiality of communications with the counsel, the right to an effective remedy, the principle of legitimate expectations, legal certainty, proportionality and that the ECB committed a détournement de pouvoir] Order of 21 January 2019 ECLI:EU:T:2019:28 rejecting the applicant's request for interim measures due to the lack of urgency
38.	Case T-27/19, **Pilatus Bank and Pilatus Holding v ECB,** *pending* [no information available]

2. Actions for failure to act against the ECB

Please note that actions against the ECB and actions against the Commission on the resolution of *Banco Popular* are entered under the section devoted to the proceedings against the SRB.

No.	Case
1.	Case T-22/16, ***Comprojecto-Projectos e Construções and Others v ECB***, *closed* [request to declare that the ECB failed to take action on the basis of a complaint submitted by the applicants on 27 November 2015, related to certain unlawful and unfounded acts carried out by the Banco de Portugal. Second, request to annul the act by which the ECB returned to the applicants the invitation to act which they had sent to it. Third, request seeking compensation for the damage allegedly sustained by the applicants as a result of that failure to act] Order of 9 March 2017 rejecting the claim as inadmissible ECLI:EU:T:2017:172.
2.	Case T-641/17, ***Ferri v ECB***, *closed* [The Applicant claims that the Court should declare that there has been a failure to carry out supervisory duties initiated by the note of 24 March 2017 for which, following an exchange of correspondence, the competent department of the ECB stated that it was not required to make provision, claiming that the issue relates to both self-protection and supervisory duties with regard to the adoption of standards for monitoring the conduct of Italian banks. In particular, the Applicant claims that the ECB failed (i) to promptly to enact the provisions implementing and subsequently to apply Legislative Decree No 385/1993 following on from the aforementioned failure by *Banca d'Italia* to enact those implementing provisions; to order *Banca d'Italia* to initiate an adaptation of the legislation governing litigation in relation to the application of penalties; (iii) to monitor the suitability of the criteria for assessing the efficiency of the banking system, which are currently clearly framed in relation to very complex and highly-structured banking institutions, and give no indication that they are flexible or in fact suitable; (iv) unreliability of the criteria for assessing the appropriateness of *Banca di Credito Cooperativo di Frascati*'s activities, given that those criteria have clearly been designed and structured to provide an assessment of the appropriateness of a complex and highly-structured banking mechanism] Order of 28 February 2018 removing the case from the register due to the plaintiff's withdrawal of its application. Consequently, the Court decided that there is no need to rule on Banca d'Italia's claim in support of the ECB ECLI:EU:T:2018:113

3. Actions against SRB Decisions

The judicial proceedings against the Single Resolution Board (SRB), which often come on top of the appeal proceedings before the SRB Appeal Panel, mainly concern SRB Decisions on the *ex-ante* contributions to the Single Resolution Fund (SRF), the SRB Decision on the resolution of *Banco Popular Español S.A.*, a Spanish credit institution and the SRB Decisions regarding *ABLV Bank, AS*, a Latvian credit institution and *ABLV Bank Luxembourg, SA*, a subsidiary of the Latvian credit institution.

3.1. Actions for annulment of SRB Decisions on contributions to the Single Resolution Fund (SRF)

No.	Case
1.	Case T-365/16, **Portigon v SRB,** *pending* [request for annulment of the SRB Decisions underpinning the notices by which, on 22 April 2016 and on 10 June 2016, the German Federal Agency for Financial Market Stabilisation (*Bundesanstalt für Finanzmarktstabilisierung*) requested payment by the applicant of annual contributions to the SRF for the year 2016 and to order the defendant to produce the decisions referred to in the first paragraph. Applicant relies on seven pleas in law: (i) infringement of the first, second and third subparagraphs of Article 70(2) of the SRM Regulation in conjunction with Article 8(1)(a) of the Council Implementing Regulation (EU) 2015/81 and Article 103(7) of the BRRD; (ii) infringement of Article 16 and Article 20 of the Charter of Fundamental Rights of the European Union ('Charter'); (iii) in the alternative, infringement of the first, second and third subparagraphs of Article 70(2) of the SRM Regulation in conjunction with Article 8(1)(a) of the Council Implementing Regulation (EU) 2015/81 and Article 103(7) of the BRRD; (iv) in the alternative, infringement of Article 70(6) SRM Regulation in conjunction with Article 5(3) and (4) of the Delegated Regulation 2015/63; (v) in the alternative, infringement of Article 70(6) of the SRM Regulation in conjunction with Article 6(8)(a) of the Delegated Regulation 2015/63; (vi) infringement of Article 41(1) and (2)(a) of the Charter, as the defendant should have given the applicant a hearing before adopting its decisions; (vii) infringement of Article 41(1) and (2)(c) of the Charter, as the defendant did not give adequate reasons for its decisions]
2.	Case T-323/16, **Banco Cooperativo Español v SRB**, *pending* [request for annulment of the SRB Decision of 26 April 2016 regarding the 2016 *ex ante* contributions to the SRF. The applicant relies on two pleas in law: (i) declaration that Article 5(1) of the Delegated Regulation 2015/63 is inapplicable because it infringes Article 103(7) of the BRRD, in that it establishes a system of calculation that imposes on an institution with a conservative risk profile an *ex ante* contribution of an institution with a very high risk profile; infringes Article 16 of the Charter, in that it unjustifiably restricts the fundamental right of freedom to conduct a business; infringes the principle of proportionality, in failing to take into consideration the double counting of certain of the applicant's liabilities, thereby generating a manifestly unjustifiable unnecessary and disproportionate restriction; (ii) infringement of the second subparagraph of Article 103(2) of the BRRD and Article 70 of the SRM Regulation, interpreted in the light of Article 16 of the Charter and of the principle of proportionality]
3.	Case T-376/16, **Oberösterreichische Landesbank v SRB**, *closed* [request for annulment of the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF supplementing the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions of the SRF. The Applicant relied on four pleas in law: (i) flagrant breach of essential procedural requirements due to a failure to state reasons; (ii) flagrant breach of essential procedural requirements due to a lack of full disclosure; (iii) insufficient correction of the contribution concerning applicant for the SRF for 2016; (iv) illegality of the non-repayment of the overpaid contribution until 2017] Order of 2 March 2017 for the removal of the case from the register ECLI:EU:T:2017:141.

4.	Case T-377/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending* [request for annulment of the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF; in the alternative, annul the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF in so far as it orders that the repayment of the overpaid contribution in connection with the setting of the contribution for the SRF should occur in 2017. The pleas in law are similar to the ones in case T-376/16]
5.	Case T-466/16, **RW. Bank v SRB**, *pending* [request for annulment of the SRB Decision on the Applicant's annual contribution to the restructuring fund for the contribution year from 1 January to 31 December 2016. Applicant relies on three pleas in law: (i) infringement of Article 103(2) and (7) of the BRRD and of Article 70(2) of the SRM Regulation (ii) infringement of the regulations giving effect to the BRRD and of the SRM Regulation, which are to be interpreted giving preference to auxiliary development business; (iii) in the alternative, the unlawfulness of the regulations giving effect to the BRRD and the SRM Regulation: the Applicant argues that if an interpretation of the implementing regulations in accordance with the BRRD and the SRM Regulation is not possible, the implementing regulations are, in that respect, unlawful. Consequently, the defendant's decision based on those implementing regulations is also unlawful]
6.	Case T-645/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending* [request for annulment of the SRB Decision of 15 April 2016. The Applicant relies on two pleas in law: (i) flagrant breach of essential procedural requirements by reason of a lack of (full) disclosure of the contested decision; (ii) flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons for the contested decision] Order of 6 February dismissing the request for interim measures for lack of urgency ECLI:EU:T:2017:62.
7.	Case T-661/16, **Credito Fondiario v SRB**, *closed* [request for annulment of the SRB Decision of 15 April 2016 (first decision) and of 20 May 2016 (second decision) on the *ex ante* contribution to resolution financing arrangements; declare Article 5(1)(f) and Annex I of the Delegated Regulation 2015/63 incompatible with the principles of equal treatment, proportionality and legal certainty recognised by the Charter; declare Delegated Regulation 2015/63 incompatible with the principle of freedom to conduct a business recognised by the Charter. The Applicant relies on seven pleas in law; (i) failure to notify the first and second decision; (ii) infringement of the second paragraph of Article 296 of the TFEU for failure to state reasons and infringement of the rule *audi alteram partem* in respect of decisions relating to *ex ante* contributions; (iii) incorrect application of Article 5(1)(f) of the Delegated Regulation 2015/63; (iv) infringement of Article 4(1) and Article 6 of the Delegated Regulation 2015/63; (v) infringement of Articles 20 and 21 of the Charter; (vi) infringement of the principle of proportionality and legal certainty; (vii) infringement of Article 16 of the Charter] Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:806
8.	Case T-809/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending* [request for annulment of the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions to the SRF and the SRB Decision of 20 May 2016 on the adjustment

	of the 2016 ex-ante contributions to the SRF. The Applicant relies on two pleas in law (i) flagrant breach of essential procedural requirements by reason of a lack of (full) disclosure of the contested decisions; (ii) flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons for the contested decisions]
9.	Case T-14/17, ***Landesbank Baden Württemberg v SRB***, *closed* [request for annulment of the SRB Decision of 15 April on the 2016 *ex-ante* contributions to the Single Resolution Fund and the SRB Decision on the adjustment of the 2016 *ex-ante* contributions to the SRF, in so far as the contested decisions concern the applicant's contribution. Applicant relies on four pleas in law (i) infringement of Article 296(2) of the TFEU and Article 41(1) and (2)(c) of the Charter due to a lack of sufficient reasons given for the contested decisions; (ii) infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter; (iii) infringement of Article 103(7)(h) of the BRRD, Article 113(7) of the CRR [2], the first sentence of Article 6(5) of the Delegated Regulation 2015/63, Article 16 and 20 Charter and the principle of proportionality due to the application of the multiplier of 0.556 for the IPS (Institutional Protection Scheme) — Indicator; (iv) infringement of Article 16 of the Charter and the principle of proportionality due to the application of the risk adjustment multiplier]Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:812
10.	Case T-42/17, **VR-Bank Rhein-Sieg v SRB**, *closed* [request for annulment of the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions to the SRF and the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF. The Applicant relies on four pleas in law which are essentially identical or similar to those relied on in case T/14/17] Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:813
11.	Case T-411/17, **Landesbank Baden-Württemberg v SRB**, *pending* [request for annulment of the SRB Decision of 11 April 2017 on the 2017 *ex-ante* contributions to the SRF by alleging breaches of the Charter, notably the duty to state reasons, the right to be heard, the right to effective legal protection and the principle of proportionality. Also, plea of illegality of Delegated Regulation 2015/63]
12.	Case T-414/17, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending* [request for annulment of the SRB Decision 11 April 2017 on the 2017 *ex-ante* contributions to the SRF. The Applicant relies on two pleas in law: (i) flagrant breach of essential procedural requirements by reason of incomplete notification of the decision; (ii) flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons]
13.	Case T-420/17, **Portigon v SRB**, *pending* [request for annulment of the SRB Decision of 11 April 2017 concerning the calculation of the 2017 *ex-ante* contributions to the SRF in particular because a mandatory contribution for institutions under resolution is not provided for under the SRM Regulation and Article 114 of the TFEU prohibits levying contributions on institutions, such as the applicant, which are resolving their remaining business operations; also the institution allegedly has no risk exposure and is not systemically relevant, and Article 41 of the Charter has allegedly been infringed (right to be heard; motivation)]

14.	Case T-494/17, **Iccrea Banca v Commission and SRB,** *pending* [request for annulment of the SRB Decision of 15 April 2016, as well as all subsequent decisions of the SRB on the basis of which the *Banca d'Italia* seeks contributions to the SRF and to pay compensation to *ICCREA Banca* for the damage caused by the SRB when determining contributions in the form of higher rates paid by *ICCREA Banca*; in the event that the above claims are rejected, declare Article 5(1)(a) and (f) (or, as the case may be, of the Delegated Regulation 2015/63 in its entirety) invalid, as contrary to the basic principles of equality, non-discrimination and proportionality.] The Applicant relies on six pleas in law: (i) failure to communicate the measures, infringement of the principle of transparency, infringement and misapplication of Article 15 of the TFEU and infringement of the principle of the protection of legitimate expectations; (ii) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63, and infringement of the principles of non-discrimination and sound administration; (iii) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63, and infringement of the principles of non-discrimination and sound administration in the application of Article 5[(1)](f) of the Delegated Regulation 2015/63, thereby resulting in double counting; (iv) unlawful conduct of an EU body and claiming non-contractual liability under Article 268 of the TFEU; (v) in the alternative and incidentally, alleging that the Delegated Regulation 2015/63 is in breach of the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable; (vi) infringement of Article 15 of the TFEU]Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:804
15.	Case T-400/18, **Landesbank Baden-Württemberg v SRB**, *pending* [request for annulment of the SRB decision of 12 April 2018 on the 2018 *ex-ante* contributions to the SRF. The Applicant relies on six pleas in law which are, in essence, identical or similar to the pleas in law relied on in Case T-411/17]
16.	Case T-496/18, **OCU v SRB,** *pending* [request for annulment of SRB Appeal Panel's Final Decision of 19 June 2018, denying full access to documents given in Case 54/2017 brought against the SRB. In support of the action, the applicant relies on three pleas in law: (i) breach of the fundamental right under Article 41(2) of the Charter of Fundamental Rights of the European Union ('the Charter') and the principle of the observance of the rights of the defence; (ii) infringement of Article 88 of the SRM Regulation and Article 53 of the CRD IV; (iii) breach of the fundamental right under Article 41(2) of the Charter]
17.	Case T-386/18, **Iccrea Banca v Commission and SRB,** *pending* [request for annulment of SRB Decision No SRB/ES/SRF/2018/03 of 12 April 2018 and, as appropriate, the annexes thereto, as well as any subsequent decisions of the Single Resolution Board, even those of which the applicant is not aware, on the basis of which the Banca d'Italia adopted measures No 0517765/18 of 27 April 2018 and No 0646641/18 of 28 May 2018 and for compensation, under Article 268 of the TFEU for the damage consisting of the higher rates paid, by the SRB when determining the contributions owed by the applicant; in the alternative, and in the event that the above claims are rejected, declare Article 5(1)(a) and (f) (or, as the case may be, the Delegated Regulation 2015/63in its entirety) invalid. In support of the action, the applicant relies on four pleas in law: (i) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63, and infringement of the principles of non-discrimination and sound administration; (ii) failure to carry out a proper enquiry, error

	of assessment of the facts, infringement and misapplication of Article 5[(1)](f) of the Delegated Regulation 2015/63, and infringement of the principles of non-discrimination and sound administration; (iii) claim for damages under Article 268 of the TFEU; (iv) in the alternative and incidentally, alleging that the Delegated Regulation 2015/63 is in breach of the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable]
18.	Case T-413/18**, Portigon v SRB,** *pending* [request for annulment the SRB Decision of 12 April 2018 on the 2018 *ex-ante* contributions to the SRF. The Applicant relies on seven pleas in law which are, in essence, identical or similar to the pleas in law relied on in Case T-420/17, *Portigon* v *SRB*]
19.	Case T-406/18, **de Volksbank v SRB**, *pending* [request for annulment of the SRB decision of 12 April 2018 on the 2018 *ex ante* contributions to the SRF; in the alternative, annul the abovementioned contested decision and declare Delegated Regulation 2015/63 partly or fully inapplicable, in accordance with Article 277 of the TFEU. The Applicant relies on five pleas in law: (i) breach of Article 103(2) of the BRRD, Article 70(2) of the SRM Regulation and Article 4(1) of the delegated regulation, by using incomparable data to determine the applicant's net liabilities. — It follows from the text and objectives of Article 103(2) of the BRRD and Article 70(2) of the SRM Regulation that the SRB should use data from the same point or period in time to calculate net liabilities in accordance with those provisions. — It follows from the text and objectives of Article 4(1) of the delegated regulation, in the light of the BRRD and the SRM Regulation, that the SRB must use comparable data in order to ensure a fair calculation of the contribution based on a bank's risk profile; (ii) in the alternative to the first plea, breach of Article 103(2) and 103(7) of the BRRD and of Article 290 of the TFEU because the delegated regulation, as applied by the SRB in the contested decision, exceeds the mandate provided to the European Commission, resulting in the inapplicability of the Delegated Regulation 2015/63; (iii) breach of the principle of proportionality by not properly taking into account the applicant's covered deposits; (iv) breach of the principle of legal certainty by not properly taking into account the applicant's covered deposits; (v) breach of the principle of equal treatment by not properly taking into account the applicant's covered deposits]
20.	Case T-298/18, **Banco Comercial Português and Others v Commission**, *pending* [request for annulment of Commission Decision C(2017/N) of 11 October 2017 (State aid SA.49275) insofar as it considered the contingent capital agreement ("CCA") agreed and entered into between the Portuguese Resolution Fund ("Resolution Fund") and the Lone Star group ("Lone Star") in the context of the sale of *Novo Banco, S.A.* ("*Novo Banco*") by the former to the latter, as State aid compatible with the internal market. In support of the action, the applicants rely on six pleas in law: (i) error in law in considering that the 2014 resolution of *Banco Espírito Santo, S.A.* ("*BES*") was taken solely under Portuguese law and prior to the entry into force of BRRD; (ii) error in law in considering that BRRD applied only from 1 January 2015; (iii) error in law in considering that, in order to preserve the unity and implementation of the initial resolution process of BES, the sale of *Novo Banco* should be governed by national law in force prior to the implementation of the BRRD; (iv) error in law because the Commission wrongfully considered that there are no indissolubly linked provisions of the BRRD relevant for the assessment of the CCA;

	infringement of Articles 101 and 44 BRRD; (vi) infringement of Article 108(2) of the TFEU and Article 4(4) Council Regulation (EU) 2015/1589 on the application of Article 108 TFEU by failing to open the formal procedure notwithstanding the serious doubts raised as to the compatibility of the CCA mechanism with EU law thereby depriving the applicants of their procedural rights]

3.2. Actions related to the resolution of Banco Popular Español S.A.

The pending cases on the resolution of *Banco Popular Español S.A.* (hereinafter, also '*Banco Popular*') can be distinguished in different classes. All cases concern the SRB Decision of 7 June 2017 (SRB/EES/2017/08) ('SRB Decision') adopting a resolution scheme for *Banco Popular*. Where relevant, proceedings concern the Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for *Banco Popular Español S.A.* ('Commission Decision'). Where the ECB is concerned, the proceedings concern its Failing or Likely to Fail assessment adopted on 6 June, a ***public version*** of which is available at the Banking Supervision website.

Information on the judicial proceedings against the SRB slowly gets into the public realm, with each successive entry in the Official Journal (C-series) and/or on the Curia website. The great number of cases leads us to publish an updated list now, with information up-to-date as of 1 January 2019. This implies that, for some cases on the list of proceedings against the SRB, no information is provided beyond the case number and the parties. A future update of the list will provide more.

Footnotes are explained at the bottom of the page.

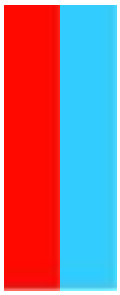
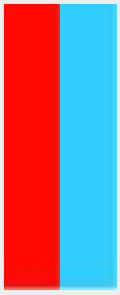
In order to enhance the transparency of this long list of cases we apply colour coding.

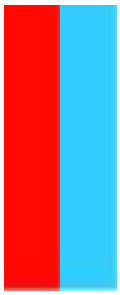
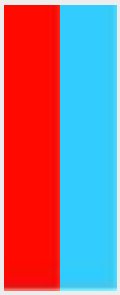
There are cases against the SRB alone [colour: orange], while other have been instituted also against other defendants, i.e., European Commission and/or the European Central Bank [colour: red].

In most cases the applicant requests annulment of the SRB Decision (and/or the Commission Decision) but, in several, there is an additional request for compensation of damages [colour: light blue] (i.e., request for annulment, or for annulment and compensation). Where the request for annulment of the SRB Decision (and/or the Commission Decision) is accompanied by a request for a new calculation (i.e., request for doing the resolution procedure again and better, this time, in terms of outcome for the applicant), the case is classified as one requesting compensation.

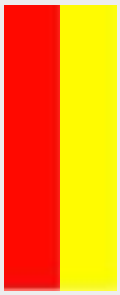
Finally, there are proceedings in which a request is submitted for the annulment or inapplicability of provisions of the SRM Regulation [colour: yellow]

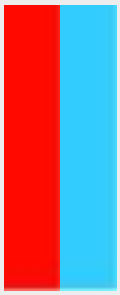
No.	Case	Colour Code
1.	Case T-473/17, **Jarabo Sancho et Jarsan Centro de Gestion v SRB**, *closed* [request for the annulment of the SRB Decision and the production of the reports mentioned in the request] Order of 27 October 2017 dismissing the action for manifest inadmissibility ECLI:EU:T:2017:778.	

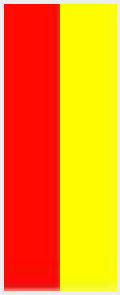
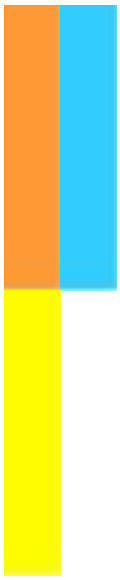
	Order of 1 December 2017 ECLI:EU:T:2017:864 rectifying the previous Order (names of judges corrected) ECLI:EU:T:2017:864	
2.	Case T-482/17, ***Comercial Vascongada Recalde v Commission and SRB***, *pending* [request for annulment of the SRB and Commission Decisions and for compensation, relying on two pleas in law: (i) infringement of Article 18(1)(a) and (4)(c) of the SRM Regulation insofar as *Banco Popular* was not 'failing' as described in those provisions; (ii) infringement of Articles 10(10), 10(11) and 21(2)(b) of the SRM Regulation insofar as there were alternatives to the resolution of *Banco Popular*]	
3.	Case T-483/17, ***García Suárez and Others v Commission and SRB***[3], *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
4.	Case T-484/17, ***Fidesban and Others v SRB***[2], *pending* [request for annulment of the SRB Decision]	
5.	Case T-497/17, ***Sáchez del Valle and Calatrava Real State 2015 v Commission and SRB***, *pending* [request for annulment of the SRB and Commission Decisions, relying on 11 pleas in law: (i) lacking or insufficient reasoning for the contested decision; (ii) infringement of Article 20(1) of the SRM Regulation by failing to carry out a reasonable, prudent and realistic valuation of the assets and liabilities of *Banco Popular* by an independent person before the resolution decision; (iii) infringement of Article 18(1)(a) in conjunction with Article 18(4)(c) of the SRM Regulation: the contested decisions uphold the resolution of *Banco Popular* while, as at 6 June 2017, the bank had no solvency problems and its liquidity problems were temporary; (iv) infringement of Article 18(1)(b) of the SRM Regulation: the contested decisions consent to the resolution of *Banco Popular*, while there were reasonable prospects that other means from the private sector could prevent it become unviable within a reasonable time; (v) infringement of Article 14(2) of the SRM Regulation: no attempt was made to minimise the cost of resolution and to avoid the destruction of wealth, which was unnecessary to achieve the objectives of resolution; (vi) infringement of Article 22 of the SRM Regulation: failing to weigh the contested decisions and adopt resolution tools other than the sale of the business, provided for in paragraph 2, in accordance with the factors set out in paragraph 3; (vii) infringement of Article 15(1)(g) of the SRM Regulation: the shareholders ought to have received more	

	than they would receive in the event of insolvency; (viii) infringement of Article 29 of the SRM Regulation; (ix) infringement of the right to property; (x) infringement of the right to an effective remedy, given the inability of the shareholders to protect their position; (xi) infringement of the right of the shareholders and other holders of securities included in the scope of the write-down and conversion to be heard]	
6.	Case T-498/17, ***Pablo Álvarez de Linera Granda v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
7.	Case T-499/17, ***Esfera Capital Agencia de Valores v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
8.	Case T-501/17, **Mutualidad Complementaria de Previsión Social Renault España v Commission and SRB**[3] *pending* [request for annulment of the SRB and Commission Decisions; in the alternative, if the General Court does not uphold the invalidity application above, declare the partial invalidity and annul in part SRB's decision mentioned above in so far as it concerns Article 6(1)(b) and (c) of that decision, relating to the conversion and depreciation of 64 695 preference shares (allegedly classified erroneously as additional capital Tier 1 instruments of *Banco Popular*), although they were instruments issued by Banco Popular]	
9.	Case T-502/17, **SFP Asset Management and Others v SRB**[3]**,** *pending* [request for annulment of the SRB Decision]	
10.	Case T-505/17, **Inverni and Others v Commission and SRB**[3]**,** *pending* [request for annulment of the SRB and Commission Decisions]	

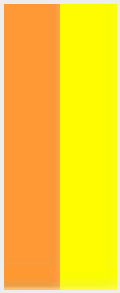
11.	Case T-507/17, **Fundación Pedro Barrié de la Maza, Conde de Fenosa v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	
12.	Case T-508/17, **Financiere Tesalia and Others v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	
13.	Case T-509/17, **Cartera de Inversiones Melca and Others v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	
14.	Case T-510/17**, Del Valle Ruiz and Others v Commission and SRB, *pending*** [request for annulment of the SRB Decision and to declare illegal Articles 18 and 22 of the SRM Regulation - applicants rely on nine pleas in law: (i) Article 18 of the SRM Regulation is unlawful, in that the process stipulated therein fails to provide stakeholders with an opportunity to be heard and allows for no judicial oversight, in violation of (a) Articles 41, 47 and 48 of the Charter and (b) the principle of proportionality; (ii) the contested SRB Decision and the contested Commission Decision infringed Articles 41, 47 and 48 of the Charter; (iii) the SRB and Commission infringed, without justification or proportion, the applicants' right to property; (iv) the SRB and Commission infringed Article 20 of the SRM Regulation by failing to undertake a proper and independent valuation prior to taking the contested Decisions; (v) the SRB and Commission infringed Article 18(1) of the SRM Regulationin determining that the conditions precedent set out under Articles 18(1)(a) and (b) were satisfied; (vi) the SRB and Commission infringed Article 21(1) of the SRM Regulation in determining that the conditions for the exercise of the power to write down or convert relevant capital instruments were satisfied; (vii) the SRB and Commission breached an essential procedural requirement in failing to provide an adequate statement of reasons for the contested Decisions; (viii) in selecting the sale of business tool, the SRB and Commission have failed to comply with (a) the principle of proportionality; and (b) the legitimate expectations of the applicants, by departing from the resolution plan without justification; (ix) Articles 18	

	and 22 of the SRM Regulation breached the principles relating to the delegation of powers]	
15.	Case T-512/17, ***OCU and Others v SRB***[3]**,** *pending* [request for annulment of the SRB Decision and to declare Articles 18 and 29 SRM Regulation illegal and inapplicable]	
16.	Case T-515/17, **Sánchez Valverde e Hijos v SRB**[3]**,** *pending* [request for annulment of the SRB Decision and for compensation]	
17.	Case T-516/17, **Imasa, Ingeniería y Proyectos v Commission and SRB**[3]**,** *pending* [request for annulment of the SRB and Commission Decisions]	
18.	Case T-517/17, ***Grúas Roxu v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions]	
19.	Case T-518/17, **Olarreaga Marques and Saralegui Reyzabal v SRB**[3]**,** *pending* [request for annulment of the SRB Decision]	

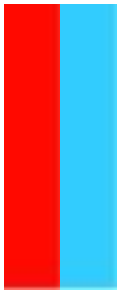
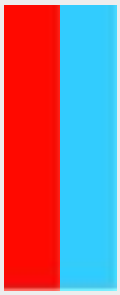
20.	Case T-520/17, **Gestvalor 2040 e.a. v SRB,** *pending* [request for annulment of the SRB Decision] Order of 9 October 2017 for partial removal of the parties from the case ECLI:EU:T:2017:723.	
21.	Case T-521/17, **Hernández Díaz v SRB[3],** *pending* [request for annulment of the SRB Decision based on the following grounds (i) it is based on a Deloitte report which was not independent, (ii) shareholders are subjected to much more significant losses than they would be had an arrangement with creditors been entered into and (iii) the bail-in tool was not applied. Action for the annulment of the sale is based on lack of transparency of the sale process, implying a serious violation of the principle of transparency and the principle of competition. Action for compensation based on the ground that the value of the shares could not be assessed given the lack of transparency of the resolution process]	
22.	Case T-522/17, **Nap Innova Hoteles v SRB,** *closed* [request for annulment of the SRB Decision and for compensation] Order of 4 December 2017, dismissing the claim as manifestly inadmissible ECLI:EU:T:2017:881 Order of 5 July 2018 dismissing the appeal as manifestly inadmissible and manifestly unfounded ECLI:EU:C:2018:546	
23.	Case T-523/17, ***Eleveté Invest Group and Others v Commission and SRB[3],*** *pending* [request for annulment of the SRB and Commission Decisions, for compensation and for the invalidity of the valuation carried out by SRB's independent expert and, following the calculation of the net value of the assets of *Banco Popular*, order SRB and the European Commission to pay compensation to the applicants]	
24.	Case T-524/17, **Folch Torrela and Others v SRB[3],** *pending* [request for annulment of the SRB Decision]	

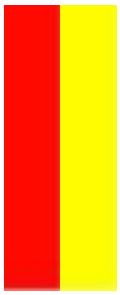
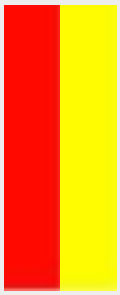
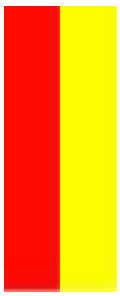
25.	Case T-525/17, ***Taberna Ángel Sierra and Others v SRB***[3]**,** *pending* [request for annulment of the SRB Decision and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	
26.	Case T-526/17, **Ruiz Jayo *and Others* v SRB,** *pending* [request for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the SRM Regulation]	
27.	Case T-527/17, ***Waisman and Others v SRB***[3]**,** *pending* [request for annulment of the SRB Decision and for compensation; in the alternative, if the Court does not uphold the claim for compensation, order the SRB to pay to the applicants compensation, the value of which corresponds to the difference (to be determined an independent person as meant in Article 20(16) of the SRM Regulation, between the payment received by the applicants pursuant to the resolution decision and the amount they would have received under a normal insolvency procedure]	
28.	Case T-529/17, **Blasi Gómez and Others v SRB**[3]**,** *pending* [request for annulment of the SRB Decision in whole; or, if this claim is not upheld, annul in part the decision, with respect to the valuation of the institution, the Court having to carry out, or order the carrying out of, a fair, actual and equitable valuation of *Banco Popular* which implies the compensation of all its shareholders and creditors in accordance with the new valuation; or, in the further alternative, if neither of the previous claims is upheld, annul in part the decision, with respect to the valuation of the institution, the Court having to carry out, or order the carrying out of, a fair, actual and equitable valuation of *Banco Popular* which implies the compensation of the applicants, as shareholders and creditors of that institution in accordance with the new valuation]	

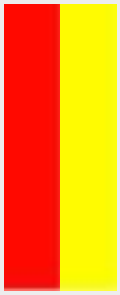
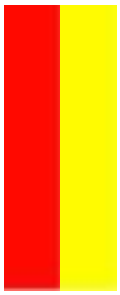
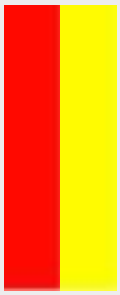
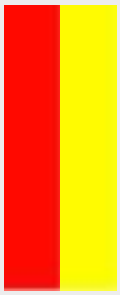
29.	Case T-530/17, **López Campo and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation; in the alternative, annul Decision SRD/EES/2017/08 and declare that the SRB is responsible for compensating the applicants in the amounts resulting from the multiplication of the number of their shares by the final listing price prior to the resolution]	
30.	Case T-531/17, ***Promociones Santa Rosa v SRB[3]*,** *pending* [request for annulment of the SRB Decision.]	
31.	Case T-535/17 ***Asociación de Consumidores de Navarra 'Irache' v SRB[3]*,** *pending* [request for annulment of the SRB Decision, declare the transactions carried out under it ineffective and order the return of the property of *Banco Popular* to the shareholders and bond-holders concerned, putting them back in the position they were in before the intervention; if that is not possible, declare the conversion of the bonds into shares to be ineffective, maintaining bond-holders in the same position as they were in on 6 June 2017 and order the payment of compensation to shareholders by payment corresponding to the actual value of the bank and, accordingly, of the shares on 30 June 2016]	
32.	Case T-538/17, **Jess Liberty v SRB[3],** *pending* [request for access to all the documents in the file and for the possibility of making further claims, and for annulment and revocation of the SRB Decision, reinstating in full the legal effect of the applicant's economic rights, in accordance with the requirements of full compensation]	
33.	Case T-544/17, ***Imabe Ibérica v SRB[3]*,** *pending* [request to acknowledge the lodging of the action against the SRB Decision in compliance with the provisions of Article 29 of the SRM Regulation, after having allowed access to all the documents in the file and given the possibility of making further claims, annul or revoke the contested decision, reinstating in full the legal effect of the applicant's economic rights, in accordance with the requirements of full compensation]	

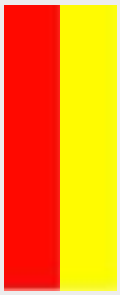
34.	Case T-545/17, **Afectados Banco Popular v SRB[3],** *pending* [request for annulment of the SRB Decision, declaring transactions carried out under it ineffective and order the return of the property of *Banco Popular* to the shareholders and bondholders, putting them back in the position they were in before the intervention; if that is not possible, declare in any event that the conversion of the bonds into shares is ineffective, maintaining bondholders in the same position as they were in on 6 June 2017 and order the payment of compensation to shareholders by payment corresponding to the actual value of the bank and, accordingly, of the shares on 30 June 2016]	
35.	Case T-552/17, **Maña *and* *Others* v SRB[3],** *pending*[request for annulment of the SRB Decision and for inapplicability of Articles 18 and 29 of the SRM Regulation inapplicable] Order of 25 October 2017 for the partial removal of the case from the register ECLI:EU:T:2017:780	
36.	Case T-554/17, **González Calvet v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
37.	Case T-555/17, **TW and Others v SRB[3],** *pending* [request for annulment of the SRB Decision] Order of 17 May 2018 dismissing the action presented by one of the applicants (UB) as manifestly inadmissible ECLI:EU:T:2018:300	
38.	Case T-557/17 ***Liaño Reig v SRB[3]*,** *pending* [request for annulment of the resolution measure consisting in the conversion of the Level 2 capital instrument relating to the subordinated bonds into newly issued *Banco Popular* shares on the ground that it is unfounded and contrary to the Regulation and the Charter. If this claim is upheld, applicant claims a specific amount of compensation. In the alternative, applicant claims compensation in the amount equivalent to that which she would have received as holder of the subordinated bond had that company been liquidated at the date of the Decision as a result of an ordinary insolvency procedure, with the amount of compensation requested in this case depending on the Spanish legal requirements for opening an ordinary insolvency procedure]	

39.	Case T-563/17, **Gayalex Proyectos v SRB**[3] *pending* [request for annulment of the SRB Decision]	
40.	Case T-566/17, **Molina García v SRB**[3]**,** *pending* [request for annulment of the SRB Decision and for compensation]	
41.	Case T-570/17, ***Algebris (UK) and Others v Commission*****,** *pending* [request for annulment of the Commission Decision, relying on six pleas in law: (i) the Commission failed properly, or at all, to comply with its legal obligation to assess the discretionary aspects of the Resolution Scheme; (ii) the Commission failed to provide adequate reasons for its contested decision; (iii) the Commission committed serious breaches of the principles of confidentiality and professional secrecy, contrary to Article 339 of the TFEU and Article 88(1) of the SRM Regulation (2) and the case-law of the Court of Justice, thereby also failing to respect the applicants' right to good administration enshrined in Article 41 of the Charter; (iv) manifest errors of assessment in the Commission's application of Articles 14, 18, 20, 21, 22 and 24 of the SRM Regulation. The applicants argue that the valuation of *Banco Popular* was not fair, prudent or reliable, and was inconsistent with the 'no creditor worse off principle'; it did not therefore constitute accurate and reliable and consistent evidence on which to base the Resolution Scheme; and it was not capable of supporting the contested decision. The Resolution Scheme (and so the Decision) allegedly manifestly disproportionate by going beyond the measures necessary to secure the resolution objectives; (v) the Resolution Scheme endorsed by the contested decision violates the applicants' property rights as enshrined in general principles of EU law and in Article 17 of the Charter; (vi) the Resolution Scheme was adopted and endorsed by the Commission in violation Article 41 of the Charter]	
42.	Case T-575/17, ***Algebris (UK) and Others v SRB*****,** *pending* [request for annulment of the SRB Decision, relying on five pleas in law. The first four pleas in law are the same as the ones raised in Case T-570/17. With the fifth plea, applicant claims that the resolution scheme was not lawfully endorsed by the Commission and so the contested decision was not lawfully brought into force. In this connection it is argued that, before adopting its Decision endorsing the Resolution Scheme, the Commission failed to assess properly, or at all, the discretionary aspects of the Resolution Scheme. This constituted a breach of the Commission's obligations under the SRM Regulation and	

	of the principles of the *Meroni* case-law of the Court of Justice. Accordingly, the SRB committed a manifest error of assessment and law by concluding that its decision adopting the Resolution Scheme could, or had, come into force; further, or alternatively, and in any event, the Resolution Scheme adopted by the contested decision did not lawfully come into force]	
43.	Case T-585/17, **Alonso Goñi *and Others v* SRB,** *pending* [request for annulment of the SRB Decision and for compensation]	
44.	Case T-592/17, ***Serra Noguera and Others v SRB***[3]**,** *pending* [request for annulment of the SRB Decision and for compensation]	
45.	Case T-597/17, **Poza Poza v SRB**[3], *pending* [request for annulment of the SRB Decision and for compensation]	
46.	Case T-613/17, **La Guirigaña and Others v ECB and SRB**[3]**,** *pending* [request for a declaration that the European Union incurred financial liability due to the ECB and for annulment of the SRB Decision of 7 June 2017; in the alternative, compensation by the SRB]	
47.	Case T-618/17, **Activa Minoristas del Popular v ECB and SRB**[3], *closed* [request for annulment of the SRB and ECB decisions and of the independent expert's valuation and for compensation] Order of 24 September 2018 dismissing the action as manifestly inadmissible ECLI:EU:T:2018:608	

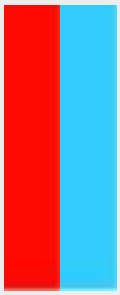
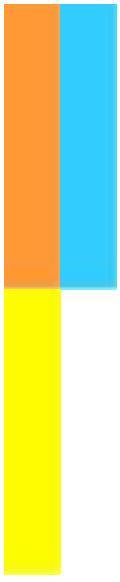
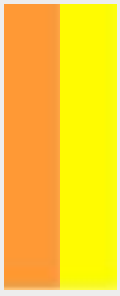
48.	Case T-619/17**, de la Fuente Martín and Others v SRB**[3], pending [request for annulment of the SRB Decision, thereby depriving it of effect and repealing it, and order the return to shareholders and owners of capital instruments of their respective shares and capital instruments of *Banco Popular* and, consequently, reinstate their rights in full; in the alternative, declare that SRB's contested decision has caused harm to *Banco Popular* shareholders and bond- holders, which the SRB is under an obligation to pay compensation and to order the SRB and, consequently, the European Union to pay compensation to the applicants in an amount equivalent to the financial value of the shares and capital instruments which were held by the applicants the day before the adoption of the contested decision or, where appropriate, in the alternative, in an amount equivalent to the financial value those shares and instruments would have maintained had the financial institution been subject to an ordinary insolvency procedure at the time of the adoption of the contested decision]	
49.	Case T-623/17, ***Previsión Sanitaria Nacional, PSN, Mutua de Seguros y Reaseguros a Prima Fija v SRB***[3]**,** *pending* [request for annulment of the SRB Decision and for compensation]	
50.	Case T-628/17, ***Aeris Invest v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
51.	Case T-630/17, ***Top Cable v Commission and SRB***[3]***,*** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
52.	Case T-631/17, ***Hola v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	

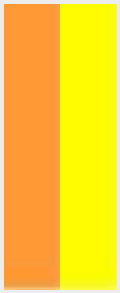
53.	Case T-637/17, ***Policlínico Centro Médico de Seguros and Medicina Asturiana v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
54.	Case T-638/17, ***Helibética v Commission and SRB***[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
55.	Case T-640/17, **Escriba Serra and Others v Commission and SRB**[3]**,** *pending* [request for the partial annulment of the SRB Decision in so far as it orders the conversion and write down of *Banco Popular* subordinated bonds and of the Commission Decision in so far as it orders the conversion of *Banco Popular* subordinated bonds; in the alternative annul both decisions in full; and to declare Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
56.	Case T-642/17, **González Buñuel *and Others* v SRB**[3]**,** *pending* [request for annulment of the SRB Decision and for compensation]	
57.	Case T-643/17, **Euroways v Commission and SRB**[3]**,** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 SRM Regulation inapplicable]	

58.	Case T-648/17, **Dadimer *and Others* v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
59.	Case T-653/17 **Relea Álvarez and Others v SRB[3]**, *pending* [request for annulment of the SRB Decision and for compensation]	
60.	Case T-659/17, **Vallina Fonseca v SRB,** *pending* [request for compensation – applicant relies on four pleas in law: (i) the SRB Decision infringes the principle according to which no one shall be heard, who invokes his own guilt and Article 88 SRM Regulation, in that a crisis that SRB allegedly itself triggered has led to the adoption of an act adversely affecting *Banco Popular* and its shareholders; (ii) the SRB infringed the duty of diligence, the principle of good administration in Article 296 of the TFEU, the principle of prohibition of arbitrary conduct, and the principle of *nemo auditur turpitudinem suam allegans*; (iii) infringement of Articles 17 and 41 of the Charter; (iv) the SRB infringed Article 17 of the Charter and Article 54 of the TEU *(on ratification of the TEU, so this must be a misquote; Article 54 TFEU concerns the treatment as natural persons/nationals of the Member States of corporations registered, having their central administration or principle place of business in the EU; and Article 54 Charter concerns the prohibition of abuse of Charter rights to limit or destruct rights and freedoms*]	
61.	Case T-660/17, **Miralla Inversiones v Commission and SRB[3],** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation]	
62.	Case T-662/17, **Link Flexible and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	

63.	Case T-663/17, **Sahece and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
64.	Case T-669/17**, Hernando Avendaño** *and Others* **v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
65.	Case T-670/17, **LG Vaquero Aviación and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
66.	Case T-675/17, **Aplicacions de Servei Monsan and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
67.	Case T-678/17, **Minera Catalano Aragonesa and Luengo Martínez v Commission and SRB[3],** *pending* [request for annulment of the SRB and the Commission Decisions]	

68.	Case T-679/17, **Grupo Villar Mir v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
69.	Case T-680/17, **Helibética v SRB[4],** *pending* [request for compensation]	
70.	Case T-685/17, **Miralla Inversiones v SRB[3],** *pending* [request for annulment of SRB Decision and for ordering the SRB to submit without delay the provisional valuation carried out by Deloitte in accordance with Article 20 of the SRM Regulation for the purpose of enabling the proper exercise of the right of the defence and, once that valuation has been submitted, allow the applicant a specific period to analyse and examine it in detail, so that it is in a position to oppose it during the reply stage; in the event that it does not accept the claims made in the previous paragraph and the proceedings continue, rule the SRB Decision is contrary to EU law]	
71.	Case T-686/17, **Policlínico Centro Médico de Seguros and Medicina Asturiana v SRB[4],** *pending* [request for compensation]	
72.	Case T-687/17, **Vendrell Marti v SRB [3],** *pending* [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	

73.	Case T-688/17, **Hola v SRB[4],** *pending* [request for compensation]	
74.	Case T-689/17, **Top Cable v SRB[4],** *pending* [request for compensation]	
75.	Case T-690/17, **Uluru and Others v Commission and SRB[3]**, *pending* [request for annulment of the SRB and Commission decisions and of the independent expert's valuation and for compensation]	
76.	Case T-693/17, **García Gómez *and Others* v SRB[3],** *pending* [request for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the SRM Regulation]	
77.	Case T-700/17, **Traviacar and Others v SRB[3]**, pending [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]Order of 16 November 2017 removing some of the applicants from the list of the plaintiffs upon their request ECLI:EU:T:2017:841	

78.	Case T-701/17, **OCU v SRB** [3], pending [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 SRM Regulation illegal and inapplicable]	
79.	Case T-705/17, **Temes Rial and Others v SRB**[3], *pending* [request for annulment of the SRB Decision and of the independent expert's valuation on which that decision is based in accordance with Article 20(15) of the SRM Regulation and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	
80.	Case T-707/17, **Euroways v SRB**[4], *pending* [request for compensation]	
81.	Case T-731/17, **Escribà Serra and Others v SRB**[4], *pending* [request for compensation]	
82.	Case T-735/17, **Asociación de Usuarios de Bancos, Cajas y Seguros de España v SRB**[3], *pending* [request for annulment of the SRB Decision]	

83.	Case T-16/18, **Activos e Inversiones Monterosso v SRB**, *pending* [claim for annulment of the SRB decision of 8 November 2017 denying applicants the right to access documents in relation to the resolution of *Banco Popular*. Pleas in law: the SRB confused the *general right of access to documents*, on which any EU citizen can rely with the "clearly separate" *right of access to the file*, which can be exercised only by parties which have an interest in the proceedings to which the file relates; the different scope of those rights is alleged to imply that the range of exceptions applicable to each right is also different, with a distinction between 'commercial interests' in the former and 'business secrets' in the latter right of access; "the existence of business secrets must be weighed against the remaining interests involved, such as the right of defence"; the invoked 'confidentiality' must be justified and reasoned; Article 41(2)(b) of the Charter requires that Article 90(4), and not 90(1) of the SRM Regulation must be applied]	
84.	Case T-62/18, **Aeris Invest v SRB**, pending [request for annulment of the Appeal Panel of the Single Resolution Board in Case 43/2017 of 28 November 2017 ('Panel's Decision') and Decision SRB/CM01/ARES(2017)4898090 of 6 September 2017. The applicant relies on six pleas in law: (i) Decision SRB/ES/2017/01 on public access to the Single Resolution Board documents ('Access Decision') infringes Article 90 of the SRM Regulation and Article 4 of the Regulation No 1049/2001 in that, first, it makes provisions ultra vires concerning the right of access to documents and, second, it creates exceptions to the right of access to documents which are not included in Regulation No 1049/2001. (ii) the Panel's Decision infringes Article of the 296 of the TFEU in that it merely claims, in vague and general terms, that disclosure of the full text of the 2016 Plan, the Resolution Decision and the Valuation Report infringes Article 4(1)(a) and 4(2) of the Regulation No 1049/2001. (iii) the Panel's Decision infringes Article 15 of the TFEU, Article 42 of the Charter and Article 4(1)(a) of the Regulation No 1049/2001, in that the resolution policy for credit institutions is not a valid exception for restricting the fundamental right to access to documents, the requirements of Article 4(1)(a) of the Regulation No 1049/2001 are not met and the valuation of the interests at stake makes it necessary to grant access to the documents requested. (iv) the Panel's Decision infringes Article 15 of the TFEU, Article 42 of the Charter and Article 4(2) Regulation No 1049/2001, in that granting full access to the Resolution Decision, the Valuation Report and the 2016 Plan does not affect the commercial interests of natural and legal persons and in any event, the weighing up of the interests at stake comes down in favour of granting access to the documents. (v) the Panel's Decision infringes Article 15 TFEU and Article 88 SRM Regulation, by denying access to information which is not protected by professional secrecy provided that there exists no-presumption of confidentiality pursuant to Article 88 of the SRM Regulation and Article 339 of the TFEU and (even if a presumption of confidentiality did exist, it would not apply because the documents are being requested for use in the context of legal proceedings.	

	(vi) the Panel's Decision amounts to misuse of power, in so far as it denies the applicant full access to the 2016 Plan claiming that that plan 'is fully covered by the exceptions set out in the third indent of Article 4 (1)(a), Article 4(1)(c) and Article 4(2) of the ECB Public Access Decision whereas, in fact, there are credible reasons for believing that the reason for that denial is none other than to hide the mistakes, gaps and shortcomings vitiating that plan]	
85.	Case T-315/18, **Calvo Gutierrez and Others v SRB,** *pending* [request for compensation. The pleas in law and main arguments are similar to those relied upon in Case T-659/17, *Vallina Fonseca* v *SRB*]	
86.	Case T-405/18, **Holmer Dahl v SRB,** *pending* [request for compensation. The pleas in law and main arguments are similar to those relied upon in Case T-659/17, Vallina Fonseca v SRB]	

3.3. Actions related to ABLV Bank, AS and ABLV Bank Luxembourg, SA

On 23 February 2018 the ECB determined that *ABLV Bank, AS* and *ABLV Bank Luxembourg, SA*, a subsidiary of the Latvian bank, were failing or likely to fail in accordance with Article 18(1)(a) in conjunction with Article 18(4)(c) of the SRM Regulation (ECB Decisions). On the same day, the SRB decided not to adopt a resolution scheme in respect of *ABLV* and its subsidiary given that resolution action with respect to the Bank is not necessary in the public interest, in accordance with Article 18(1)(c) in conjunction with Article 18(5) of the SRMR (SRB Decisions). The proceedings listed below concern the actions put forward against the SRB and the ECB Decisions. The colour coding applied for the cases on the resolution of *Banco Popular*, applies also to these cases.

No.	Case	Colour Code
1.	Case T-280/18, **ABLV Bank v SRB**, *pending* [request for annulment of the SRB Decisions of 23 February 2018. The applicant relies on 13 pleas in law, including lack of competence of the SRB, error of assessment, violation of the principle of proportionality, the right to equal treatment, the right to property]	

2.	Case T-281/18, **ABLV Bank v ECB,** *pending* [request for annulment of ECB decisions of 23 February 2018. The applicant relies on ten pleas in law, including that the ECB's assessment of the 'failing or likely to fail' criterion' in respect of the applicant and its subsidiary *ABLV Bank Luxembourg* was erroneous and deficient, violation of the right to be heard, principle of proportionality, right to equal treatment and right to property] See, also, Cases T-564/18 (*Bernis and Others v ECB*), T-283/18 (*Bernis and Others v SRB*) and T-283/18 (*Bernis and Others v ECB*)]	
3.	Case T-282/18, **Bernis and Others v SRB,** *pending* [request for annulment SRB decisions of 23 February 2018. The applicants rely on thirteen pleas in law, including lack of SRB competence, error of assessment, violation of the right to be heard and other procedural rights]	
4.	Case T-283/18, **Bernis and Others v ECB,** *pending* [request for annulment of ECB Decisions of 23 February 2018. The applicants rely on 10 pleas in law, including that the ECB's assessment of the 'failing or likely to fail' criterion' in respect of ABLV Bank and its subsidiary *ABLV Bank Luxembourg* was erroneous and deficient, violation of the principle of proportionality, the right to equal treatment and the right to property]	

4. Preliminary ruling proceedings on EU Banking Law (CRR, CRDIV, SSM Regulation, BRRD, FICOD)

No.	Case
1.	Case C-15/16, **Bundesanstalt für Finanzdienstleistungsaufsicht v Ewald Baumeister,** *closed* [the Bundesverwaltungsgericht (Federal Administrative Court) referred three questions for a preliminary ruling on the interpretation of Article 54(1) of the Directive 2004/39/EC on markets in financial instruments (MiFID I) aksing in essence whether this provision must be interpreted as meaning that (i) all information relating to the supervised entity and communicated by it to the competent authority, and all statements of that authority in its supervision file, including its correspondence with other bodies, constitutes, unconditionally, confidential information that is covered, consequently, by the obligation to maintain professional secrecy that is laid down in that provision. If it does not, the referring court seeks to ascertain, essentially, what criteria are relevant to determining which information, of that held by the authorities established by the Member States to perform the functions laid down by that directive ('the competent authorities'), must be regarded meeting the definition of confidential information; (ii) the determination whether information relating to the supervised entity and transmitted to the competent authorities is confidential depends on the date of that

	transmission and how that information is classified on that date; (iii) information held by the competent authorities which is at least five years old no longer constitutes business secrets or any other category of confidential information within the meaning of that provision] Opinion of AG Bot of 12 December 2017 ECLI:EU:C:2017:958 Judgment of 19 June 2018 ECLI:EU:C:2018:464 This judgment and the AG's Opinion are summarised and critically examined in an article by René Smits and Nikolai Badenhoop, Professional secrecy of supervisory authorities - Absent legislative coordination and questionable drafting remedied by the judiciary, submitted to a peer-reviewed law journal
2.	Case C-594/16, **Enzo Buccioni v Banca d'Italia,** *closed* [reference from the Consiglio di Stato (Council of State, Italy) on the professional secrecy obligation set out in Article 53(1) of the CRD IV, asking in essence whether this provision, read in conjunction with both Article 15 TFEU and Article 22(2) and Article 27(1) of the SSM Regulation, must be interpreted as precluding the competent authorities of the Member States from disclosing confidential information to a person who so requests in order to be able to institute civil or commercial proceedings with a view to protecting proprietary interests which were prejudiced as a result of the compulsory liquidation of a credit institution] Opinion of AG Bobek of 12 June 2018 ECLI:EU:C:2018:425 Judgment of 13 September 2018 ECLI:EU:C:2018:717 This judgment and the AG's Opinion are summarised and critically examined in an article by René Smits and Nikolai Badenhoop, Professional secrecy of supervisory authorities - Absent legislative coordination and questionable drafting remedied by the judiciary, submitted to a peer-reviewed law journal
3.	Case C-52/17, **VTB Bank (Austria) AG v Österreichische Finanzmarktaufsicht**, *closed* [reference from Bundesverwaltungsgericht (Federal Administrative Court, Austria) asking whether Articles 64 and 65(1) of the CRD IV and Article 395(1) and (5) of the CRR preclude a national legislation which provides that, where the exposure limits set out in Article 395(1) of that regulation are exceeded, 'absorption' interest is to be levied automatically on a credit institution, even if that institution fulfils the conditions laid down in Article 395(5) of the regulation under which a credit institution may exceed those limits and whether Article 48(3) of the SSM Framework Regulation is to be interpreted as meaning that a supervisory procedure may be regarded as having been formally initiated, within the meaning of that provision, where a credit institution reports to the national supervisory authority that the limits set in Article Article 395(1) of the CRR have been exceeded, or where that authority has already adopted a decision in a parallel procedure concerning similar breaches] Judgment of 7 August 2018 ECLI:EU:C:2018:648
4.	Case C-215/17, **Nova Kreditna Banka Maribor d.d. v Republika Slovenija,** *closed* [reference from the Vrhovno sodišče (Supreme Court, Slovenia) asking whether Article 1 (2), c) of the Directive 2003/98/EC on the re-use of public sector information and Article 432 (2) of the CRR should be interpreted as to preclude a national legislation requiring a bank which is under the dominant influence of a public entity to disclose data regarding contracts for consultancy, legal services, copyright and services of an intellectual nature (i.e. the corporate or business name, registered office and business address, the value of the contract, the amount of the individual payments for the

	abovementioned services) without providing for any exception to that requirement in order to protect the business secrets of the bank] Opinion of AG Bobek 5 September 2018 ECLI:EU:C:2018:664 Judgment of 14 November 2018 ECLI:EU:C:2018:901
5.	Case C-219/17, **Berlusconi and Fininvest**, *closed* [reference from the Consiglio di Stato (Council of State, Italy) asking whether (i) challenges for judicial review of an NCA's draft proposal to the ECB in a qualifying holding procedure (Article 22 CRD IV; Article 15 SSM Regulation) are within the competence of national or EU courts; (ii) whether the CJEU is competent when the applicant claims the nullity of these acts for the infringement of *res iudicata*] Opinion of Advocate General Campos Sánchez-Bordona of 27 June 2018 ECLI:EU:C:2018:502Judgment of 19 December 2018 ECLI:EU:C:2018:1023 Summary by Federico Della Negra
6.	Case C-282/16, ***RMF Financial Holdings S.a.r.l. v Heta Asset Resolution AG*, *closed*** [subsequently withdrawn reference from the *Handelsgericht Wien* (Commercial Court, Austria) on the BRRD in relation to the Directive 2001/24/EC (on the reorganisation and winding up of credit institutions) asking whether the (i) a wind-down entity that no longer holds a banking licence to transact banking business or is now permitted to transact banking business on the basis of a statutory licence solely for the purposes of portfolio liquidation also falls within the scope of Article 1(1) BRRD; if the first question is answered in the negative: (ii) whether Article 3(2) Directive 2001/24/EC implies that a write-down measure ordered by a national administrative authority is fully effective as against persons resident in other Member States, also having regard to Article 17(1) of the Charter (right to property) (iii) if the free movement of capital (Article 63(1) TFEU) precludes a national provision extending the scope of the BRRD to a wind-down entity; (iv) if a write-down measure ordered by a national administrative authority is to be recognised in another Member State (v) whether the term "secured liability" in Articles 2(1)(67) and 44(2)(b) BRRD is to be interpreted, in particular having regard its Article 1(2), as also encompassing liabilities for which a regional public authority (*i.c.* the Austrian Province of Carinthia) has assumed a statutory deficiency guarantee? (vi) are Articles 43(2)(b) and 59(3)(b) and (4) of the BRRD to be interpreted as precluding a national provision by virtue of which a measure corresponding to the bail-in tool of Article 43 BRRD is implemented in a case where there is no longer a realistic prospect that the institution's viability may be restored and where no systemically important services are transferred to a bridge institution and no other parts of the institution's business may be sold any longer, but the sole purpose of that institution is management of assets, rights and liabilities with a view to the orderly, active and optimum realisation of those individual assets, rights and liabilities (portfolio liquidation)? In such a case, in accordance with the BRRD, should the liquidation of that wind-down entity preferentially be carried out in the context of orderly insolvency proceedings?] Order of 25 November 2016 removing the case from the registry due to the withdrawal of the request for a preliminary ruling ECLI:EU:C:2016:945
7.	Case C-414/18, **Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia,** *pending* [reference from the *Tribunale Amministrativo Regionale per il Lazio* (Regional Administrative Court, Italy) asking whether: (i) Article 5(1), in particular subparagraphs (a) and (f), Delegated Regulation 2015/63, interpreted in the light of the principles

	referred to in that regulation, in BRRD, SRM Regulation and Article 120 TFEU, the fundamental rules of equal treatment, non-discrimination and proportionality laid down in Article 21 of the Charter of Fundamental Rights of the European Union, and the prohibition on levying double contributions, preclude, for the purpose of calculating the contributions referred to in Article 103(2) BRRD, the application of the regime laid down for intragroup liabilities also in the case of a 'de facto' group or, in any event, in the case of interconnectedness between an institution and other banks forming part of the same system; (ii) Alternatively, in the light of the above-mentioned principles, the preferential treatment reserved for liabilities arising in respect of promotional loans in Article 5 Delegated Regulation 2015/63 should also be applied, by analogy, to the liabilities of a 'second-level' bank vis-à-vis other banks in the (cooperative credit) system, or should that characteristic of an institution, in fact operating as a central bank within an interconnected and integrated group of small banks, including in its relations with the ECB and the financial markets, give rise, under existing rules, to some form of adjustment to the financial data submitted by the national resolution authority to the relevant Community bodies and to the determination of the contributions payable by the institution to the resolution fund in respect of its actual liabilities and risk profile]
8.	Case C-255/18, **State Street Bank International GmbH v Banca d'Italia,** *pending* [reference from *Tribunale Amministrativo Regionale per il Lazio* (Regional Administrative Court, Italy) asking whether: (i) the "changes of status" that do not have an effect on the contribution requirement under Article 12 of the Delegated Regulation 2015/63 include the merger by acquisition of an institution previously subject to supervision by a national resolution authority with its parent company in another Member State during the contribution period, and does this rule also apply where the merger and the resulting dissolution of the institution took place in 2015, at a time when the Member State had not yet formally established either the national resolution authority or the national resolution fund and the contributions had not yet been calculated; (ii) Article 12 of the Delegated Regulation 2015/63, in conjunction with Article 14 of that regulation and Articles 103 and 104 of the BRRD, should be interpreted as meaning that also in the case of the merger of an institution by acquisition with a parent company in another Member State during the contribution period, the institution is required to pay the contribution for that period in full, not on a pro rata basis according to the months when the institution was subject to supervision by the resolution authority of the first Member State, by analogy with the rules laid down for "newly supervised" institutions under Article 12(1) of the Delegated Regulation 2015/63?; (iii) BRRD, Delegated Regulation 2015/63 and the principles governing the system of banking crisis resolution tools should be interpreted as meaning that the rules laid down for the ordinary contribution, in particular Article 12(2) of the Delegated Regulation 2015/63, also apply, with regard to the timing of the identification of institutions required to contribute and the amount of the contribution, to the extraordinary contribution, bearing in mind the nature of that contribution and the conditions under which it may be imposed]

5. Judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts

No.	Case
1.	*Bundesverfassungsgericht* (Constitutional Court, Germany), judgment 2 BvR 1685/14

	[Constitutional complaint by the *Europolis Gruppe* against the SSM and the relevant national legislation (Gesetz zum Vorschlag für eine Verordnung des Rates zur Übertragung besonderer Aufgaben im Zusammenhang mit der Aufsicht über Kreditinstitute auf die Europäische Zentralbank *vom 25. Juli 2013, BGBl. II 2013, S. 105*0); Act of 25 July 2013 on the proposal of the Council conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions) and secondary law acts on banking union – an analysis of the issue in the context of the German constitution by the academic service of the Bundestag (German Lower House of Parliament) can be found here]
2.	Ufficio del giudice per le indagini preliminari del *Tribunale di Vicenza* (judge in charge of preliminary investigations at the Tribunal of Vicenza, Italy), order of 8 February 2018 [The Tribunal of Vicenza, in the context of the criminal proceedings for the alleged crimes of market manipulation, obstacles to supervisory activity and false prospectus against managers of *Banca Popolare di Vicenza SpA*, decided that the ECB, as well as the *Banca d'Italia*, the *CONSOB* and some private entities, cannot be called on these criminal proceeding as persons liable for the damages caused by these managers to the investors. The Tribunal motivated this conclusion by holding that there is no legal provision that requires the ECB to be responsible for the damages committed by others and because, in accordance with Article 268 and 340 of the TFEU, Italian courts do not have jurisdiction on the ECB]
3.	*Corte Costituzionale* (Constitutional Court, Italy), judgment of 21 March 2018, n. 99 [The Italian Constitutional Court dismissed the questions for constitutionality raised by the *Consiglio di Stato* with regard to Article 1 of the Law Decree n. 3/2015, converted into Law n. 33/2015 ('Law Decree'). This provision allows cooperative banks (banche popolari and banche di credito cooperativo) to limit the right of shareholders to have their shares redeemed in case of withdrawal from the company, when this limitation is necessary to meet the own funds requirements (Article 28(2ter) of the Legislative Decree n. 385/1993). The judgment is motivated by the following reasons. First, the Law Decree was adopted in compliance with the requirements of urgency and necessity laid down by Article 77(2) of the Italian Constitution. Second, the limitation to the shareholders' right to redeem their shares does not violate the right to property enshrined in Articles 41, 42, 117 of the Italian Constitution, Article 1 of the Protocol to the ECHR and Article 17 of the Charter. The Court held that the limitation to the right to property is legitimate, in that (i) it respects the EU own funds requirements, in particular, Article 10(2) of the Commission Delegated Regulation (EU) No 241/2014, (ii) it is necessary in order to reduce the risks that the withdrawal of a high number of shareholders and the redemptions of their shares would pose to the stability of the banks and the system and (iii) it is proportionate in order to ensure the stability of the banking and financial system as a whole and to avoid that the bank may be subject to resolution. Third, Banca d'Italia by exercising its power to implement, through *9° aggiornamento alla Circolare n. 285/2017* the Law Decree, did not exceed the limits of its mandate]
4.	UK Supreme Court, judgment of 4 July 2018, [2018] UKSC 34 [Goldman Sachs International (Appellant) v Novo Banco SA (Respondent) Guardians of New Zealand Superannuation Fund and others (Appellants) v Novo Banco SA (Respondent)] Summary by Petja Ivanova

[1] Article 429 (14) CRR:

“Competent authorities may permit an institution to exclude from the exposure measure exposures that meet all of the following conditions:

(a) they are exposures to a public sector entity;

(b) they are treated in accordance with Article 116(4);

(c) they arise from deposits that the institution is legally obliged to transfer to the public sector entity referred to in point (a) for the purposes of funding general interest investments.” Article 116(4) CRR: “In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority in whose jurisdiction they are established where in the opinion of the competent authorities of this jurisdiction there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority.”

[2] The pleas in law and main arguments are similar to those alleged in Case T-478/17.

[3] The pleas in law and main arguments are similar to those put forward in Cases T-478/17, T-481/17, T-482/17, T-483/17, T-484/17, T-497/17, and T-498/17.

[4] The pleas in law and main arguments are similar to those relied on in Case T-659/17, Vallina Fonseca v SRB

[5] Based on the ECB Banking Supervision website and ECB summary of the penalty, on 14 March 2018 the ECB imposed an administrative penalty of EUR 1 600 000 on *Banco de Sabadell, S.A.*. for having repurchased its own shares without prior permission and ordered the publication of this decision on its website.

[6] In these quotes from the information in the *Official Journal*, *Τράπεζα της Ελλάδος* (Bank of Greece) was wrongly translated into ‘National Bank of Greece; ‘the NBG’’ which is not the Bank of Greece but a Greek commercial bank (*Εθνική Τράπεζα της Ελλάδος* (National Bank of Greece). In this description, Τράπεζα της Ελλάδος has been translated into Bank of Greece (BoG).