

The General Court's Order of 12 September 2017 is subject to three appeals: by the bank and its shareholders (Case C-669/17 P)¹, by the ECB (Case C-663/17 P)² and by the Commission (Case C-665/17 P)³. *Trasta* and its shareholders "claim that the General Court erred in assuming that TKB's remedy is entrusted to the liquidator. The appellants claim that this assumption is irreconcilable with Article 263 TFEU and the guarantee of an effective remedy as well as a number of related principles". Their further claims relate to the relationship between a company and its shareholders (the appellants "claim that the General Court erred in assuming that the shareholders' action is a substitute for the shareholders' ability to defend TKB's license through an action by TKB itself") and to further substantive and procedural issues.

The European Commission attacks the admissibility decision on principled grounds. It contests that "[t]he General Court has erroneously considered that it was necessary to declare admissible an application for annulment brought by shareholders of a credit institution in liquidation against a decision to withdraw the authorisation of the credit institution in order to provide an effective remedy. In so doing, it has neglected the other remedies available to the credit institution, in the form of a timely application for annulment and of a request for interim measures, and to the shareholders, in the form of an action for damages against the European Central Bank before the European Courts and possibly in the form of other actions before national courts." The Commission's appeal concerns core elements of standing under Article 263 TFEU: the condition of legal interest in bringing proceedings and the conditions of individual and direct concern.

The European Central Bank also opposes the General Court's findings that "the shareholder applicants had an interest and legal standing in the General Court regarding the action for annulment of the contested decision". The General Court allegedly misconstrued "case law requiring that shareholders show that they possess a separate interest in bringing proceedings against a Decision addressed to the undertaking which they partly controlled". According to the ECB, shareholders cannot be said to have a legal interest in a bank having a licence which differs from the bank's own legal interest in having that licence⁴. The possibility to obtain damages or dividends would not substantiate a legal interest separate from that of the credit institution. Shareholders may be admitted in a claim for damages in a liability suit against the ECB. The ECB also pleads that the shareholders were neither individually nor directly concerned, so they do not have *locus standi*. The ECB emphasises the difference between *economic* losses and the *legal* position of those suffering them.

¹ OJ C 42/8, 5 February 2018.

² OJ C 32/16, 29 January 2018.

³ OJ C 42/6, 5 February 2018.

⁴ I present this plea, formulated case-specific, i.e. relating to *Trasta Komerbanka*, in general terms here.