

## The Banking Union and Union Courts: overview of cases as of 21 December 2023



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### Court judgments and orders since the last edition

- Order of the General Court of 14 September 2023; [ECLI:EU:T:2023:552](#) removing [Case T-442/18](#), *Aeris Invest v ECB* from the register.

Three Orders dismissing actions by *Sberbank* against the SRB and/or the Commission on the resolution of the Austrian bank and its Slovenian and Croatian subsidiaries (Orders against which appeals have been lodged, see below):

- Order of the General Court of 10 October 2023 in [Case T-525/22](#), *Sberbank of Russia v Commission and SRB* dismissing the action as inadmissible;
- Order of the General Court of 10 October 2023 in [Case T-526/22](#), *Sberbank of Russia v Commission and SRB* dismissing the action as inadmissible;

- Order of the General Court of 10 October 2023 in [Case T-527/22](#), *Sberbank of Russia v SRB* dismissing the action as inadmissible
- Opinion of Advocate General Ćapeta delivered on 9 November 2023; [ECLI:EU:C:2023:846](#) in [Case C-551/22 P](#), *Commission v SRB*
- Judgment of 22 November 2023; [ECLI:EU:T:2023:732](#), dismissing the action in [Case T-340/20](#), *Galván Fernández-Guillén v SRB*
- Judgment of 22 November 2023; [ECLI:EU:T:2023:733](#), dismissing the action in [Case T-330/20](#), *ACMO and Others v SRB*
- Judgment of 22 November 2023; [ECLI:EU:T:2023:734](#), dismissing the action in [Case T-304/20](#), *Molina Fernández v SRB*
- Judgment of 22 November 2023; [ECLI:EU:T:2023:735](#), dismissing the actions in joined cases [T-302/20](#), *Del Valle Ruíz and Others v SRB*, [T-303/20](#), *Arias Mosquera and Others v SRB*, and [T-307/20](#), *Calatrava Real State 2015 v SRB*
- Judgment of 20 December 2023; [ECLI:EU:T:2023:827](#) in [Case T-389/21](#), *Landesbank Baden-Württemberg v CRU*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Landesbank Baden-Württemberg*, while maintaining the effects of the contested decision in respect of the applicant, until the entry into force, within six months, of a new SRB decision establishing its *ex ante* contribution for 2021
- Judgment of 20 December 2023; [ECLI:EU:T:2023:857](#) in [Case T-496/18](#), *OCU v SRB*, dismissing the action
- Judgment of 20 December 2023; [ECLI:EU:T:2023:845](#), in [Case T-383/21](#), *Banque postale v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Banque postale*, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French
- Judgment of 20 December 2023; [ECLI:EU:T:2023:823](#), in [Case T-384/21](#), *Confédération nationale du Crédit mutuel v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Confédération nationale du Crédit mutuel*, and the other applicants listed in the (unpublished) annex, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021
- Judgment of 20 December 2023; [ECLI:EU:T:2023:824](#), in [Case T-385/21](#), *BPCE and Others v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *BPCE* and the other applicants listed in the (unpublished) annex, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021
- Judgment of 20 December 2023; [ECLI:EU:T:2023:825](#), in [Case T-387/21](#), *Société générale and Others v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Société générale*, *Crédit du Nord* and *SG Option Europe*, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021
- Judgment of 20 December 2023; [ECLI:EU:T:2023:826](#), in [Case T-388/21](#), *Crédit agricole and Others v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Crédit agricole* and the other applicants listed in the (unpublished) annex while maintaining the effects of the contested

decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021

- **Judgment of 20 December 2023; [ECLI:EU:T:2023:829](#) in [Case T-397/21](#), *BNP Paribas v SRB*, annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *BNP Paribas* while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021.**

### Proceedings newly listed

- [Case T-421/23](#), *Versobank v ECB*, action for damages allegedly resulting from the license withdrawal on 17 July 2018 and the ECB's alleged interference with the applicant's representation
- [Case T-430/23](#), *ABL V Bank v SRB*, action for annulment of the SRB's decision on access to documents, the decision of the SRB's Appeal Panel in so far as it contains adverse findings for the applicant, and the SRB's negative reply pursuant to Regulation 1049/2001.

Three appeals by *Sberbank* lodged on 20 December 2023 against the Orders of the General Court of 10 October in *Sberbank's* cases against the SRB and/or the Commission on the resolution of the Austrian bank and its Slovenian and Croatian subsidiaries:

- [Case C-791/23 P](#), *Sberbank v Commission and SRB*
- [Case C-792/23 P](#), *Sberbank v Commission and SRB*
- [Case C-793/23 P](#), *Sberbank v Commission and SRB*.

Seven proceedings initiated by French banks against the SRB decision on 2023 *ex ante* contributions to the Single Resolution Fund:

- [Case T-456/23](#), *Crédit Agricole and Others v SRB*, request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF and to declare a number of provisions of the SRM Regulation, the Implementing Regulation and the Delegated Regulation inapplicable
- [Case T-458/23](#), *BPCE and Others v SRB*, same request as in [Case T-456/23](#)
- [Case T-459/23](#), *Société générale and SG Option Europe v SRB*, same request as in [Case T-456/23](#)
- [Case T-460/23](#), *Banque postale v SRB*, same request as in [Case T-456/23](#)
- [Case T-466/23](#), *Confédération nationale du Crédit mutuel and Others v SRB*, same request as in [Case T-456/23](#)
- [Case T-469/23](#), *BNP Paribas v SRB*, same request as in [Case T-456/23](#)

and

- [Case T-461/23](#), *Dexia Crédit Local v SRB*, request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF, based on a different set of pleas in law than the six preceding cases but also arguing for the inapplicability of provisions, even challenging the validity as such of the Delegated Regulation and of Articles 5, 69 and 70 of the SRM Regulation as adopted under the wrong legal basis (Article 114 TFEU).

**The first application by a Dutch bank against banking-union related issues:**

- [Case T-428/23](#), **ABN AMRO Bank and ABN AMRO Hypotheken Groep v SRB**, request to annul of Decision SRB/ES/2023/23 of 2 May 2023 in so far as it leads to an incorrect and unjustifiable determination of ABN AMRO Hypotheken Groep's contributions for 2016, 2017, 2018, 2019, 2020, 2021, 2022 and/or 2023 to the SRF.

**Finally, the list includes an entry which we had missed:**

- **Joined cases [C-498/22](#) (*Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v C.F.O.*), [C-499/22](#) (*Novo Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v J.M.F.T., M.H.D.S*) and [C-500/22](#) (*Novo Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v Proyectos, Obras y Servicios de Badajoz SL*)**, [request for a preliminary ruling](#) from the *Tribunal Supremo* (Spain) lodged on 22 July 2022 on questions [Directive 2001/24](#) on the reorganisation and winding up of credit institutions.

## 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 the ABoR's opinions.

## Disclosure, disclaimer, debt of gratitude

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.

As always, comments and suggestions are very welcome ( <a href="mailto:rs@renesmits.eu">rs@renesmits.eu</a> or <a href="mailto:Federico.Della@EUI.eu">Federico.Della@EUI.eu</a> ).
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[René Smits](#) is an Member of the [Administrative Board of Review](#) (ABoR), which independently reviews prudential decisions of the European Central Bank (ECB). In this capacity, or in his previous capacity as an Alternate Member, he may have been involved in cases which subsequently reach the Court in Luxembourg included in this list. He is Professor *emeritus* of the Law of the Economic and Monetary Union (EMU) at the [University of Amsterdam](#), teaches at the University of Amsterdam in the [Master Law & Finance](#) and is a [consultant on EMU law](#).

[Federico Della Negra](#) is a Team Lead - Legal Counsel in the ECB's Directorate General SSM Governance and Operations. He graduated in law at the Sant'Anna School of Advanced Studies in Pisa and at the University of Pisa. He holds an LLM in Comparative, European and International Laws from the [European University Institute \(EUI\)](#) and a PhD in Law from the EUI. He is member of the Associate Researcher Group of the European Banking Institute.

This edition of the list has resulted from close cooperation with members of the **EBI Young Researchers Group** some of whom have contributed amendments, checked the earlier edition for errors and submitted a case summary. We welcome [Thomaz Braga de Arruda](#), [Kalliopi Letsiou](#) and [Alessandro Cuomo](#), and acknowledge the support of [Elia Cerrato García](#), [Ilya Kokorin](#), [Stavros Kourmpetis](#), and [Elli Kyriaki Anastopoulou](#). While gratefully acknowledging the contributions this time of Thomaz and Alessandro, the editors naturally remain responsible for the list. However, we do not accept responsibility for reliance on the list, or for any inadvertent errors or omissions it may contain.

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.

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## 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, SA*, *ABLV Bank, AS* and *ABLV Bank Luxembourg, SA* are entered under the section devoted to the proceedings against the SRB.

No.	Case
1.	<p><a href="#">Case T-122/15</a>, <b>Landeskreditbank Baden-Württemberg – Förderbank v ECB</b>, <i>closed</i></p> <p>[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]</p> <ul style="list-style-type: none"> <li>Judgment of 16 May 2017 <a href="#">ECLI:EU:T:2017:337</a> (<a href="#">press release</a>)</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-450/17 P</a>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Opinion AG Hogan of 5 December 2018 <a href="#">ECLI:EU:C:2018:982</a></li> <li>Judgment of 8 May 2019, <a href="#">ECLI:EU:C:2019:372</a></li> </ul> <p>This judgment will have limited practical consequences for <i>L-Bank</i> and other <i>Landesbanken</i> as their position has been altered by a legislative decision to exempt them from ECB supervision, as explained in this <a href="#">note by René Smits</a>. For the interpretation of the <i>L-Bank</i> judgment by the German Constitutional Court, see its judgment of 30 July 2019 <a href="#">2 BvR 1685/14</a>, <a href="#">2 BvR 2631/14</a>, reported below as no.7 in section 5 (<i>Judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts</i>)</p>
2.	<p><a href="#">Case T-712/15</a>, <b>Crédit Mutuel Arkéa v ECB</b>, <i>closed</i></p> <p>[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 <i>Crédit Mutuel</i> as a whole have not been met”) and the governance structure of the group]</p> <ul style="list-style-type: none"> <li>Judgment of 13 December 2017 <a href="#">ECLI:EU:T:2017:900</a> (<a href="#">press release</a>)</li> </ul> <p>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 <a href="#">short note</a> by René Smits.</p> <p><b>Appeal:</b> Joined cases <a href="#">C-152/18 P</a> and <a href="#">C-153/18 P</a>, <b>Crédit Mutuel Arkéa v ECB</b>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Order of 20 September 2018 accepting the request of Confédération nationale du Crédit mutuel to intervene in support of the ECB and the European Commission <a href="#">ECLI:EU:C:2018:765</a></li> <li>Opinion AG Pitruzzella of 18 June 2019 <a href="#">ECLI:EU:C:2019:505</a></li> <li>Judgment of 2 October 2019 dismissing the appeal <a href="#">ECLI:EU:C:2019:810</a> and notably confirming several points of the General Court’s judgment, among others on the objectives pursued by consolidated supervision, on the absence of a requirement that a central body of a banking group need to be a credit institution for Article 10 of the <a href="#">CRR</a> to apply, and on the extent of the ECB’s supervisory powers, which do not depend on the availability of sanctioning powers over an entity</li> </ul>
3.	<p><a href="#">Case T-52/16</a>, <b>Crédit Mutuel Arkéa v ECB</b>, <i>closed</i></p> <p>[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]</p>



	<ul style="list-style-type: none"> <li>Judgment of 13 December 2017 <a href="#">ECLI:EU:T:2017:902</a> (<a href="#">press release</a>) <a href="#">Summary by René Smits</a> (judgments in cases T-712/15 and T-52/16)</li> </ul> <p><b>Appeal:</b> Joined cases <a href="#">C-152/18 P</a> and <a href="#">C-153/18 P</a>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Opinion AG Pitruzzella of 18 June 2019 <a href="#">ECLI:EU:C:2019:505</a></li> <li>Judgment of 2 October 2019 dismissing the appeal <a href="#">ECLI:EU:C:2019:810</a></li> </ul>
4.	<p><a href="#">Case T-133/16</a>, <b><i>Caisse régionale de crédit agricole mutuel Alpes Provence v ECB</i></b>, <i>closed</i></p> <p>[alleged misconstruction of <a href="#">Article 13 CRD IV</a> (<i>Effective direction of the business and place of the head office</i>) and of <a href="#">Articles L 511-13</a> (four eyes principle) and <a href="#">L 511-52</a> (sufficient time allocation requirement for directors of a credit institution) of the French Code <i>monétaire et financier</i>; infringement of Articles <a href="#">13</a> and <a href="#">88</a> (<i>Governance arrangements</i>) <a href="#">CRD IV</a>, and of Article <a href="#">L 511-58</a> of the French Code <i>monétaire et financier</i> (on the cumulative functions of the Chair and the CEO) in an ECB decision of 29 January 2016]</p> <ul style="list-style-type: none"> <li>Judgment of 24 April 2018 in Joined Cases T-133/16 to T-136/16 <a href="#">ECLI:EU:T:2018:219</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
5.	<p><a href="#">Case T-134/16</a>, <b><i>Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-133/16; see under 4]</p>
6.	<p><a href="#">Case T-135/16</a>, <b><i>Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-133/16; see under 4]</p>
7.	<p><a href="#">Case T-136/16</a>, <b><i>Caisse régionale de crédit agricole mutuel Brie Picardie v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-133/16; see under 4]</p>
8.	<p><a href="#">Case T-247/16</a>, <b><i>Trasta Komercbanka and others v ECB</i></b>, renamed into <b><i>Fursin and Others v ECB</i></b>, <i>closed</i></p> <p>[request to annul the ECB's decision dated 3 March 2016 withdrawing the banking license of <i>Trasta Komercbanka</i> AS on the basis of six grounds, inter alia, that the ECB violated <a href="#">Article 24 SSM Regulation</a> in connection with ABoR's review of an earlier decision, relied on inaccurate documents submitted by the <a href="#">Latvian supervisory authority</a> and violated the principles of proportionality (alternative measures allegedly available), equal treatment, legitimate expectations and legal certainty, committed <i>détournement de pouvoir</i>, violated procedural rules relating to the withdrawal of an authorisation (<a href="#">Article 83 of the SSM Framework Regulation</a>), and violated its independence (Recital 19 and Article 19 of the SSM Regulation). See, also the <a href="#">winding-up</a> measure announced pursuant to Directive 2001/24/EC in the <a href="#">Official Journal of the EU</a>]</p> <ul style="list-style-type: none"> <li>Order of 12 September 2017 rejecting the claim of <i>Trasta Komercbanka</i> as inadmissible and upholding the shareholders' claim as admissible <a href="#">ECLI:EU:T:2017:623</a></li> <li><b>Appeal:</b> Case <a href="#">C-663/17 P</a> (appeal by the ECB), Case <a href="#">C-665/17 P</a> (appeal by the Commission) and Case <a href="#">C-669/17 P</a> (appeal by <i>Trasta Komercbanka</i>). The appeal grounds are summarized <a href="#">here</a></li> <li>Opinion of AG Kokott in joined cases <a href="#">C-663/17 P</a>, <a href="#">C-665/17 P</a> and <a href="#">C-669/17 P</a> of 11 April 2019 <a href="#">ECLI:EU:C:2019:323</a></li> </ul>

	<p><a href="#">Summary by René Smits</a></p> <ul style="list-style-type: none"> <li>Judgment in Joined Cases C-663/17 P, C-665/17 P and C-669/17 of 5 November 2019 <a href="#">ECLI:EU:C:2019:923</a></li> </ul> <p><a href="#">Summary by René Smits</a></p> <p>See, also, the <a href="#">Order of 17 November 2021</a> in <a href="#">Case T-247/16 RENV</a> in which the General Court concludes that “<b>There is no longer any need to rule on the action</b>” because the proceedings were against the <i>original</i> decision to withdraw the license, a decision which had been replaced by a post-administrative review decision. Core considerations: “A decision identical in content to the reviewed decision can therefore only replace the latter with retroactive effect to the time at which the reviewed decision took effect”; “the replacement of the initial decision by an identical or amended decision at the end of the review procedure results in the definitive disappearance of the initial decision from the legal order”. See, also, <b>Case C-90/23 P</b>, <i>pending</i> below</p>
9.	<p><a href="#">Case T-698/16</a>, <i>Trasta Komerbanka and others v ECB</i>, <i>closed</i></p> <p>[request to annul the ECB's decision dated 3 March 2016 withdrawing the banking license of <i>Trasta Komerbanka AS</i> on the basis of seven grounds. In addition to the grounds put forward in the case T-247/16, above, the applicant alleged that the ECB violated Article 24 of the <a href="#">SSM Regulation</a> and related provisions in connection with the review of the ECB's earlier decision by the ABoR].</p> <p>For the Order of 12 September 2017 and the subsequent appeals, see the previous case.</p> <ul style="list-style-type: none"> <li>Judgment of 30 November 2022 <a href="#">ECLI:EU:T:2022:737</a>, dismissing the action dismissing the action to annul the ECB decision of 11 July 2016 withdrawing the authorisation of <i>Trasta Komerbanka</i>, <i>closed</i></li> </ul> <p><b>Appeal:</b> Case <a href="#">C-90/23 P</a>, <i>pending</i></p> <p>[Three pleas in law: (1) alleging that the General Court committed several errors in connection with the issue of the representation of the appellant, which the Court of Justice (Grand Chamber) examined in its judgment of 5 November 2019, <i>ECB and Others v Trasta Komerbanka and Others</i> (C-663/17 P, C-665/17 P and C-669/17 P, EU:C:2019:923), including its representation during the procedure leading to the contested decision; (2) alleging that the General Court erred with respect to the manner in which the General Court treated the ECB's decision prior to the review by the ECB's Administrative Board of Review (the “ABoR”), on the one hand, and the ECB's decision following the ABoR-review, on the other hand; the appellant claims that the General Court violated the legitimate expectations, which it had created by means of its order of 17 November 2021, <i>Trasta Komerbanka v ECB</i> (<a href="#">T-247/16 RENV</a>, not published, EU:T:2021:809); (3) alleging that General Court erroneously rejected the plea of an infringement of Article 24(7) SSMR by erroneously assuming that this provision envisages a decision with effect <i>ex tunc</i>.]</p> <p><b>Appeal:</b> Case <a href="#">C-103/23 P</a>, <i>pending</i></p> <p>[Alleging that the General Court committed a series of procedural errors, which are grounds for annulment of the judgment. One concerned a possible conflict of interest of the attorney, Mr O. Behrends, when acting for both <i>Trasta Komerbanka AS</i> and other applicants in the General Court proceedings, which might amount to a violation of the appellant's right to a fair trial, while claiming that, in accordance with Latvian law, the proceedings may be taken over by Mr Igor Buimisters' heirs. Another alleged error concerns the infringement on the rights of third parties (the creditors of <i>Trasta</i></p>



	<i>Komerčbanka AS</i> ) by determining <i>Trasta's</i> obligation to cover the costs of legal proceedings.]
10.	<p><a href="#">Case T-733/16</a>, <b><i>Banque Postale v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-745/16]</p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:477</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
11.	<p><a href="#">Case T-745/16</a>, <b><i>BPCE v ECB</i></b>, <i>closed</i></p> <p>[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: <i>Livret A</i>, deposits with the <a href="#">Caisse des Dépôts et Consignations</a> (CDC); incorrect application of <a href="#">CRR</a>, rendering <a href="#">Article 429(14) CRR</a><sup>1</sup> ineffective]</p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:476</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
12.	<p><a href="#">Case T-751/16</a>, <b><i>Confédération Nationale du Crédit Mutuel v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-745/16]</p> <p>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 <a href="#">ECLI:EU:T:2017:361</a></p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:475</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
13.	<p><a href="#">Case T-757/16</a>, <b><i>Société générale v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-745/16]</p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:473</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
14.	<p><a href="#">Case T-758/16</a>, <b><i>Crédit Agricole v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-745/16]</p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:472</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
15.	<p><a href="#">Case T-768/16</a>, <b><i>BNP Paribas v ECB</i></b>, <i>closed</i></p> <p>[issues as in Case T-745/16]</p> <ul style="list-style-type: none"> <li>Judgment of 13 July 2018 <a href="#">ECLI:EU:T:2018:471</a></li> </ul> <p><a href="#">Summary by René Smits</a></p>
16.	<p><a href="#">Case T-913/16</a>, <b><i>Fininvest and Berlusconi v ECB</i></b>, <i>closed</i></p> <p>[request for annulment of ECB Decision of 25 October 2016 rejecting the acquisition by <i>Finanziaria d'investimento Fininvest SpA</i> 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]</p>

	<p>See also below, under 4. Preliminary ruling proceedings on EU Banking Law: <a href="#">Case C-219/17</a>, <i>Berlusconi and Fininvest</i></p> <ul style="list-style-type: none"> <li>Hearing scheduled for Thursday 16 September 2021</li> <li>Judgment of 11 May 2022 dismissing the action <a href="#">ECLI:EU:T:2022:279</a> (available in 23 languages now, including in English)</li> </ul> <p><a href="#">Summary by René Smits</a></p> <p><b>Appeal:</b> <a href="#">C-512/22 P</a>, <i>Fininvest v ECB</i>, <i>pending</i></p> <p>[request to set aside the judgment and annul the ECB's decision; <i>in eventu</i> set aside the judgment and refer the case back to a different chamber of the General Court. The appellant relies on eleven pleas in law, including an incorrect assessment of the effects of the control exercised by the applicants at first instance over Banca Mediolanum, an infringement of the general principle of non-retroactivity of measures]</p> <p><b>Appeal:</b> <a href="#">C-513/22 P</a>, <i>Berlusconi v Commission and Fininvest</i>, <i>pending</i></p> <p>[request to set aside the judgment and annul the ECB's decision; <i>in eventu</i> set aside the judgment and refer the case back to a different chamber of the General Court. The appellant relies on eleven pleas in law, which apart from minor linguistic differences, are identical to the pleas in <a href="#">C-512/22 P</a> (see above)]</p>
17.	<p><a href="#">Case T-321/17</a>, <i>Niemelä e a. v ECB</i>, <i>closed</i></p> <p>[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]</p> <ul style="list-style-type: none"> <li>Order in Case T-321/17, Heikki Niemelä and Others v European Central Bank; <a href="#">ECLI:EU:T:2021:942</a> (available in English and French)</li> </ul> <p>The Court held that the claims instituted against the original decision to withdraw Nemea Bank plc's authorisation to operate as a credit institution are not longer to be adjudicated since that withdrawal decision, after review by the Administrative Board of Review, was replaced by a decision of identical content, and "the replacement of the initial decision by an identical or amended decision at the end of the review procedure results in the definitive disappearance of the original decision from the legal order". This leads to there being no interest on the part of the claimant in the pursuit of the proceedings: "in the event of withdrawal of the contested act, the applicant retains no interest in obtaining its annulment and the action against it becomes devoid of purpose, with the result that there is no longer any need to adjudicate" (para. 52). Since "the contested act has been replaced, with retroactive effect, by an identical act, which would not be affected by the potential annulment of the first act" (para 53). The Court adds: "in a legal context which organises an administrative review giving rise to the adoption of acts intended to replace, with retroactive effect, the acts which were the subject of that review, the interests of the affected parties are fully protected by the possibility of seeking annulment of the act adopted following the review in question and compensation for any damage caused by the adoption of that review." (para 54). The request for compensation (originally for € 10 million, later raised to € 100 million) is declared to be "manifestly inadmissible".</p> <p><b>Appeal:</b> <a href="#">Case C-181/22 P</a>, <i>Nemea Bank and Others v ECB</i>, <i>pending</i></p>

	<p>[the Appellant claims that the Court should set aside the order under appeal; refer the case back to the General Court to be properly adjudicated, but to a different chamber with an entirely different composition of judges, given the bias and non-respect of the Appellant's fundamental rights by the chamber having issued the said order. The appeal is based on five grounds: (i) the General Court erred in law by erroneously assuming that there is no need to adjudicate in case T-321/17, erroneously failed to take into consideration that the purported effect ex tunc of the ECB decision of 30 June 2017 violated Art. 263 TFEU and erroneously assumed that the Appellant has no interest in the annulment of the ECB decision of license withdrawal of 23 March 2017; (ii) the General Court erred in law with respect to numerous infringements of essential procedural requirements; (iii) the General Court failed to take into consideration the violation of the Appellant's rights pursuant to Art. 47 of the Charter prior to the commencement of the procedure and the continuing lack of an effective representation of the Appellant during the proceedings; (iv) the General Court failed to take into consideration the violation of the Appellant's rights pursuant to Article 41 of the Charter in deciding the application for damages to be inadmissible; and (v) the General Court erred in law by failing to take into consideration the Appellant's rights provided by the Article 340 TFEU when deciding that the application for damages is inadmissible].</p> <ul style="list-style-type: none"> <li>Opinion of Advocate General Juliane Kokott, 30 November 2023; <a href="#">ECLI:EU:C:2023:935</a></li> </ul> <p>In this Opinion, the A-G holds that there can be an interest to challenge the first decision taken by the ECB which has been replaced by the second, post-review decision; if followed by the Court, this might vary the conclusions of the <i>Versobank</i> case law. See <a href="#">Case C-803/21 P</a>, <i>Versobank v ECB</i> in item 29 below.</p> <p><a href="#">Summary by Thomaz de Arruda</a></p>
18.	<p><a href="#">Case T-768/17</a>, <i>Comprojecto-Proyectos e Construções and Others v ECB</i>, <b>closed</b></p> <p>[request for annulment of the ECB's alleged refusal to act, the ECB alleged decision not to initiate infringement proceedings (against the <i>Banco de Portugal</i> or against the credit institution?) and to annul acts by the <i>Banco de Portugal</i> and its officials "who took a position on the complaints and claims presented between 26 June 2013 and 22 April 2015". The applicants 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 <a href="#">Charter</a>, violation of rights under the <a href="#">Directive 2005/29/EC</a> 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", <i>Banco de Portugal</i>. The claim alleges money laundering, fraud, or tax evasion on the part of BCP to the detriment of the EU budget and implies that <a href="#">OLAF</a>, 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 <i>Tribunal Administrativo e Fiscal de Sintra</i>]</p> <ul style="list-style-type: none"> <li>Order of 14 February 2019 dismissing the actions; <a href="#">ECLI:EU:T:2019:104</a>, available in French and Portuguese.</li> </ul> <p><b>Appeal:</b> <a href="#">Case C-251/19 P</a>, <b>closed</b></p> <ul style="list-style-type: none"> <li>Order of 2 October 2019 dismissing the appeal as manifestly inadmissible; <a href="#">ECLI:EU:C:2019:813</a>, available in French and Portuguese.</li> </ul>
19.	<p><a href="#">Case C-251/19 P-OST</a>, <i>Comprojecto-Proyectos e Construções and Others v ECB</i>, <b>closed</b></p> <p>[request for remedying an alleged failure to adjudicate (Article 155 <a href="#">Rules of Procedure of the Court of Justice</a>)]</p>

	<ul style="list-style-type: none"> <li>Order of 12 May 2020 rejecting the request <a href="#">ECLI:EU:C:2020:366</a>, available in French and Portuguese.</li> </ul>
20.	<p><a href="#">Case T-442/18</a>, <b>Aeris Invest v ECB</b>, <i>closed</i></p> <p>[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 <a href="#">ECB Public Access Decision</a>, 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 <a href="#">ECB Public Access Decision</a>, 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 <a href="#">ECB Public Access Decision</a>, 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 <a href="#">ECB Public Access Decision</a>, 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]</p> <ul style="list-style-type: none"> <li>Order of the General Court of 14 September 2023; <a href="#">ECLI:EU:T:2023:552</a> removing the case from the register, following the withdrawal of the request by the applicant, and ordering each party to bear its own costs, available in French and Spanish</li> </ul>
21.	<p><a href="#">Case T-143/18</a>, <b>Société Générale v ECB</b>, <i>closed</i></p> <p>[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 (IPC) in respect of the deposit guarantee schemes or the resolution funds.</p> <p>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 <a href="#">SSM Regulation</a>; (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]</p> <ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:389</a></li> </ul>
22.	<p><a href="#">Case T-144/18</a>, <b>Crédit Agricole and others v ECB</b>, <i>closed</i></p> <p>[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 (IPC) in respect of the deposit guarantee schemes or the resolution funds. The plea in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, <i>Société Générale v ECB</i>]</p>

	<ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:390</a></li> </ul>
23.	<p><a href="#">Case T-145/18</a>, <b>Confédération nationale du Crédit mutuel and Others v ECB</b>, <i>closed</i></p> <p>[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 (IPC) in respect of the deposit guarantee schemes or the resolution funds. The plea in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, <i>Société Générale v ECB</i>]</p> <ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:391</a></li> </ul>
24.	<p><a href="#">Case T-146/18</a>, <b>BPCE and Others v ECB</b>, <i>closed</i></p> <p>[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 (IPC) in respect of the deposit guarantee schemes or the resolution funds. The plea in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, <i>Société Générale v ECB</i>]</p> <ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:392</a></li> </ul>
25.	<p><a href="#">Case T-149/18</a>, <b>Arkéa Direct Bank and Others v ECB</b>, <i>closed</i></p> <p>[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 (IPC) in respect of the deposit guarantee schemes or the resolution funds. The plea in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, <i>Société Générale v ECB</i>]</p> <ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:393</a></li> </ul>
26.	<p><a href="#">Case T-150/18</a>, <b>BNP Paribas v ECB</b>, <i>closed</i></p> <p>[request for partial annulment of Article 9 of an ECB decision of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. The plea in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, <i>Société Générale v ECB</i>]</p> <ul style="list-style-type: none"> <li>Judgment of 9 September 2020 annulling the IPC requirement (French version) <a href="#">ECLI:EU:T:2020:394</a>. This judgment is now available in 23 including English. See, also, <a href="#">Case T-345/18</a> below.</li> </ul>
27.	<p><a href="#">Case T-203/18</a>, <b>VQ v ECB</b>, <i>closed</i></p> <p>[request for annulment of the <a href="#">decision</a> 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 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 <a href="#">CRD IV</a>, was not in force nor determined until afterwards and therefore claims that the ECB breached Article 18(1) of the <a href="#">SSM Regulation</a> and Article 49(1) of the <a href="#">Charter</a> 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 <a href="#">SSM Framework Regulation</a>, 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 <a href="#">SSM Regulation</a> is unlawful as it prescribes publication of an administrative pecuniary penalty even if the applicant</p>



	<p>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]</p> <ul style="list-style-type: none"> <li>• Order of 3 May 2018 dismissing the application for interim measures for lack of urgency <a href="#">ECLI:EU:T:2018:261</a></li> </ul> <p><a href="#">Summary by Ioannis Asimakopoulos</a></p> <ul style="list-style-type: none"> <li>• Judgment of 8 July 2020 dismissing the action for annulment <a href="#">ECLI:EU:T:2020:313</a></li> </ul> <p>[The General Court rejected all the pleas claimed by the applicant. In particular, the Court highlighted that the applicant failed to demonstrate that the publication of the name of the credit institution by the ECB was the cause of a 'disproportionate' nature of the damage in the meaning of Article 132(1) of the <a href="#">SSM Framework Regulation</a>]</p>
28.	<p><a href="#">Case T-345/18</a>, <b>BNP Paribas v ECB</b>, <i>closed</i></p> <p>[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 <a href="#">SSM Regulation</a>. 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 <a href="#">SSM Regulation</a> 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]</p> <ul style="list-style-type: none"> <li>• Judgment of 9 September 2020 annulling the IPC requirement <a href="#">ECLI:EU:T:2020:394</a> See, also, <a href="#">Case T-150/18</a> at 26 above.</li> </ul>
29.	<p><a href="#">Case T-351/18</a>, <b>Ukrseľhosprom PCF and Versobank v ECB</b>, <i>closed</i></p> <p>[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]. See, also, <a href="#">Case T-584/18</a> under no. 35 below.</p>



	<ul style="list-style-type: none"> <li>Judgment of 6 October 2021 ordering that Cases T-351/18 and T-584/18 be joined for the purposes of the judgment, declaring that there is no longer any need to adjudicate on the action in Case T-351/18 and dismissing the action in Case T-584/18 <a href="#">ECLI:EU:T:2021:669</a>, available in 23 languages including English and Estonian.</li> </ul> <p><a href="#">Partial summary by René Smits</a></p> <p><b>Appeal:</b> <a href="#">Case C-803/21 P</a>, <i>Versobank v ECB</i>, <i>closed</i></p> <p>[the appellant claims that the Court should set aside the judgment under appeal; declare void the decisions of the ECB on the revocation of the appellant's authorization dated 26 March 2018 (the "First Contested Decision") and 17 July 2018 (the "Second Contested Decision"); refer joined cases T-351/18 and T-584/18 back to the General Court for it to determine the actions for annulment. The appeal is based on six grounds].</p> <ul style="list-style-type: none"> <li>Judgment of 7 September 2023, <a href="#">ECLI:EU:C:2023:630</a> dismissing the appeal.</li> </ul>
30.	<p><a href="#">Case T-451/18</a>, <i>Triantafyllopoulos and Others v ECB</i>, <i>closed</i></p> <p>[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.<sup>6</sup> The harm is claimed to have been caused by the inadequate auditing and supervision of the <i>Trapeza tis Ellados</i> (Bank of Greece, 'the BoG')<sup>6</sup> 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 <i>Achaiki Synetiristiki Trapeza</i>. 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 <i>Achaiki Synetiristiki Trapeza</i> 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 <i>Achaiki Synetiristiki Trapeza</i>. 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 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 <i>raison d'être</i> 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."]</p> <ul style="list-style-type: none"> <li>Order of 25 September 2019 <a href="#">ECLI:EU:T:2019:715</a> dismissing the action (Order available in Greek only)</li> </ul>

31.	<p><a href="#">Case T-564/18</a>, <b>Bernis and Others v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB decision of 11 July 2018 withdrawing the banking licence of <i>ABLV Bank</i>, 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 <i>nemo auditur</i> principle]</p> <p>See, also, cases T-281/18 (<i>ABLV Bank v ECB</i>) and T-280/18 (<i>ABLV Bank v SRB</i>)</p> <ul style="list-style-type: none"> <li>Order of 6 February 2020 removing the case from the register; <a href="#">ECLI:EU:T:2020:73</a></li> </ul>
32.	<p><a href="#">Case T-576/18</a>, <b>Crédit agricole v ECB</b>, <i>closed</i></p> <p>[request for annulment of <a href="#">ECB decision of 16 July 2018 imposing on the applicant an administrative penalty</a> for continued breach of <a href="#">Article 26 (3)</a> of the Regulation (EU) No 575/2013 (<a href="#">CRR</a>) on the classification of CET1 instruments ('the contested decision'). The applicant relies on two pleas in law: (i) the contested decision is <i>ultra vires</i> because, in essence, the ECB erred in law in its interpretation of Article 26(3) of the <a href="#">CRR</a>, 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 <a href="#">CRR</a>, 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]</p> <ul style="list-style-type: none"> <li>Judgment of 8 July 2020 annulling in part an ECB administrative pecuniary penalty <a href="#">ECLI:EU:T:2020:304</a>. (French version. This judgment is available in 23 languages including English.)</li> </ul> <p>[The General Court stated that the ECB acted lawfully both as regard to the substance and the procedure. However, the Court annulled only partially the ECB decision because the ECB failed to provide adequate reasons for justifying the pecuniary penalties, included the lack of a reference to the size of the credit institution concerned. The Court noted the absence of fining guidelines (paragraph 144: "la décision attaquée ne fournit pas de précisions quant à la méthodologie appliquée par la BCE aux fins de déterminer le montant de la sanction infligée") in its assessment of the adequacy of the reasoning for the imposition of the fine.]</p> <p>Note that, in March 2021, the ECB adopted fining guidelines: <a href="#">Guide to the method of setting administrative pecuniary penalties</a> pursuant to Article 18(1) and (7) of Council Regulation (EU) No 1024/2013.</p> <p><b>Appeal:</b> Case <a href="#">C-456/20 P</a>, <b>Crédit agricole v ECB</b>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Order of the Court of Justice of 16 June 2021 rejecting the appeal as partially manifestly inadmissible and partially manifestly unfounded; <a href="#">ECLI:EU:C:2021:502</a> (French version. This judgment is available in 23 languages including English.)</li> </ul>

33.	<p><a href="#">Case T-577/18</a>, <b>Crédit agricole Corporate and Investment Bank v ECB</b>, <i>closed</i></p> <p>[request for annulment of <a href="#">ECB decision of 16 July 2018</a>. 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]</p> <ul style="list-style-type: none"> <li>Judgment of 8 July 2020 annulling in part an ECB administrative pecuniary penalty <a href="#">ECLI:EU:T:2020:305</a> (see case <a href="#">Case T-576/18</a>, at 32 above)</li> </ul> <p><b>Appeal:</b> <a href="#">C-457/20 P</a>, <b>Crédit agricole Corporate and Investment Bank v ECB</b>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Order of the Court of Justice of 16 June 2021 rejecting the appeal as partially manifestly inadmissible and partially manifestly unfounded; <a href="#">ECLI:EU:C:2021:502</a> (French version. This judgment is available in 23 languages including English.)</li> </ul>
34.	<p><a href="#">Case T-578/18</a>, <b>CA Consumer Finance v ECB</b>, <i>closed</i></p> <p>[request for annulment of <a href="#">ECB decision of 16 July 2018</a>. 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]</p> <ul style="list-style-type: none"> <li>Judgment of 8 July 2020 annulling an ECB administrative pecuniary penalty <a href="#">ECLI:EU:T:2020:306</a> (see case <a href="#">Case T-576/18</a>, at 32 above)</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-458/20 P</a>, <b>CA Consumer Finance v ECB</b>, <i>pending</i></p>
35.	<p><a href="#">Case T-584/18</a>, <b>Ukrseľhosprom PCF and Versobank v ECB</b>, <i>closed</i></p> <p>[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]. See, also, <a href="#">Case T-351/18</a>, above.</p> <ul style="list-style-type: none"> <li>Hearing scheduled on 6 October 2021</li> <li>Judgment of the General Court of 6 October 2021 in Cases T-351/18 and T-584/18 (<b>Ukrseľhosprom PCF LLC and Versobank AS v ECB</b>); <a href="#">ECLI:EU:T:2021:669</a>.</li> </ul> <p>For a partial summary, see under no. 29 above (<a href="#">Case T-351/18</a>)</p>
36.	<p><a href="#">Case T-687/18</a>, <b>Pilatus Bank v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB's email to the applicant dated 10 September 2018 in so far as, by that email, the ECB requested the applicant to direct its communications via the Competent Person appointed under Maltese law or with the Competent Person's approval. 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 <a href="#">SSM Regulation</a>, the <a href="#">Charter of Fundamental Rights</a> 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]</p> <ul style="list-style-type: none"> <li>Order of 21 January 2019 dismissing the applicant's request for interim measures due to the lack of urgency <a href="#">ECLI:EU:T:2019:28</a>.</li> <li>Order of 10 July 2019 dismissing the applicant's action as inadmissible as "the contested email (...), by specifying the forms which communications addressed to the ECB should take, has solely the purpose and effect of expressing the ECB's view on a particular aspect of the course of the preparatory proceedings concerning the adoption of a potential licence withdrawal decision" and "does</li> </ul>

	<p>not produce legal effects that are distinct from the licence withdrawal decision, but only limited effects, characteristic of an intermediate measure forming part of a preliminary administrative procedure; [it] governs only certain aspects of the licence withdrawal proceedings and does not include any decision on the substance..” <a href="#">ECLI:EU:T:2019:542</a></p>
37.	<p><a href="#">Case T-741/18</a>, <b>ZZ v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB’s decision of 10 October 2018 regarding the proposed acquisition by the applicant of a qualifying holding in Bank A (ECB-SSM-2018-LV-2). The applicant relies on two pleas in law: (i) failure to show that the applicant lacked transparency in his dealings with the competent authorities; (ii) error of law in finding that the applicant’s innocent dealings with a third party cast doubt on the applicant’s integrity in circumstances where the ECB accepts that the applicant had no knowledge of any wrongdoing on the part of that third party at the time and in circumstances where the applicant was an innocent victim of that wrongdoing]</p> <ul style="list-style-type: none"> <li>Order of 23 October 2020 removing the case from the Court’s registry following the applicant’s request to discontinue proceedings <a href="#">ECLI:EU:T:2020:521</a></li> </ul>
38.	<p><a href="#">Case T-27/19</a>, <b>Pilatus Bank and Pilatus Holding v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB’s decisions dated 2 November 2018 and sent to Pilatus Bank plc. on 5 November 2018 regarding the withdrawal of its banking license. The applicants rely on eleven pleas in law, including lack of legal basis for the withdrawal, failure to assess correctly the facts, and violation of the principle of proportionality, the <i>nemo auditur</i> principle, the principle of equal treatment, the applicants’ right of defence and their right to be heard]</p> <ul style="list-style-type: none"> <li>Judgment of 2 February 2022, <a href="#">ECLI:EU:T:2022:46</a> dismissing the action of Pilatus Bank plc and Pilatus Holding Ltd. seeking the annulment of the ECB decision of 2 November 2018 withdrawing the banking license of Pilatus Bank, available in 24 languages including English and Maltese</li> </ul> <p><b>Appeal:</b> <a href="#">C-256/22 P</a>, <b>Pilatus Bank v ECB</b>, <i>pending</i></p> <p>[the appellant claims that the Court should set aside the judgement under appeal; declare void the ECB’s decision of 2 November 2018 regarding the withdrawal of the licence of Pilatus Bank; refer the case back to the General Court for it to rule on the action for annulment as far as the Court of Justice is not able to take a decision on the merits. The appeal is based on four grounds: (i) the General Court erroneously assumed that it is legally relevant whether the ECB is responsible for the preceding de facto license withdrawal and in particular whether the ECB was under an obligation to prevent the de facto license withdrawal by means of an intervention pursuant to Article 6(5)(c) of <a href="#">Single supervisory mechanism Regulation</a> (SSMR); (ii) the General Court erred holding that the concept of reputation in Article 23 of <a href="#">CRD IV</a> does not necessarily have to be interpreted in accordance with the European Union legal order so that an indictment in a third country may damage a shareholder’s reputation even if the relevant conduct is not illegal in the European Union order and even if the conduct is covered by a Blocking Statute; (iii) the General Court misinterpreted the concept of proportionality by failing to consider that a proportionality analysis needs to be based on the grounds on which the decision is based; (iv) the appellant’s procedural rights were violated].</p> <ul style="list-style-type: none"> <li>Judgment scheduled 8 February 2024</li> </ul>
39.	<p><a href="#">Case T-139/19</a>, <b>Pilatus Bank v ECB</b>, <i>closed</i></p> <p>[request to annul the decision by which the ECB refused to take over direct supervision of the applicant pursuant to Article 6(5)(b) of the <a href="#">SSM Regulation</a>. In support of the action, the applicant relies on nine pleas in law, including that the ECB erred in the</p>

assumption it no longer has competence for supervision of the applicant following the withdrawal of its licence agreement, that the ECB is obliged to take over supervision as it has to maintain high supervisory standards, that the ECB violated the right to an effective remedy]

- Order of 24 September 2021 dismissing the action as manifestly lacking any foundation in law [ECLI:EU:T:2021:623](#)

#### Summary

After its authorisation as a credit institution had been revoked, Pilatus Bank plc, a Maltese less significant institution (i.e. under supervision of the [Maltese Financial Services Authority](#) [MFSA] until the withdrawal of its banking license, requested the ECB to take over direct prudential supervision. It did so to obtain an order from the ECB to the ‘competent person’ appointed by the MFSA to pay the fees of the lawyer representing the management of the bank in legal proceedings. The current proceedings were instituted against the ECB’s refusal of this request.

The applicant argued that the ECB had committed an error of law in holding that it lacked competence on the ground that the applicant was no longer a credit institution as a result of the withdrawal of its authorisation. Pilatus Bank disputed the ECB’s interpretation according to which the ECB is not competent to exercise prudential supervision of a credit institution whose authorisation has been withdrawn.

Interpreting the SSM Regulation, [the Court held](#) that “the ECB is competent to carry out prudential supervision tasks with regard to all undertakings established in participating Member States the business of which is to take deposits or other repayable funds from the public and to grant credits for their own account” (para 38), further finding as follows: “The ECB’s competence to carry out prudential supervision tasks is therefore defined, *rationae personae*, as referring to credit institutions and, *rationae materiae*, as referring to the activity of an undertaking taking deposits or other repayable funds from the public and granting credits for its own account” (para 39).

Since exercising banking activity requires authorisation (Article 14(3) [SSM Regulation](#))<sup>1</sup> and “the business of taking deposits or other repayable funds from the public” is prohibited for unauthorised institutions (Article 9(1) [CRD](#)), the Court found that, once an authorisation is withdrawn, the undertaking which held a banking license “may no longer be regarded as an ‘undertaking the business of which is to take deposits or other repayable funds from the public’ (see para 34 above) and is therefore no longer a ‘credit institution’ within the meaning of point 3 of Article 2 of [the [SSM Regulation](#)] (see para 33 above). The ECB cannot, therefore, exercise, with regard to such an entity, any of the tasks listed in Article 4(1) of [the [SSM Regulation](#)], since, according to that same provision, those tasks are to be carried out only in relation to ‘credit institutions’ within the meaning of that regulation.”

As Pilatus Bank sent the requests after withdrawal of its banking license, the ECB was “manifestly lacking in competence to ensure direct prudential supervision of the applicant when the latter asked it to do so.”

#### **Appeal: [C-750/21 P](#), *Pilatus Bank v ECB*, *pending***

Appeal brought on 6 December 2021 by Pilatus Bank against the order of the General Court (Ninth Chamber) delivered on 24 September 2021, relying on [two grounds of appeal](#), including “by falsely assuming that the ECB has no further competence with respect to the appellant as a result of the appellant’s loss of license”.

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<sup>1</sup> One wonders why the Court refers to this provision, which determines the competence of the ECB to grant authorisation, rather than to [Article 8 CRD](#), which partially reads as follows: “1. Member States shall require credit institutions to obtain authorisation before commencing their activities.” Also, in para 41, the Court refers to [point 42 of Article 4 of the CRR](#) (“(42) ‘authorisation’ means an instrument issued in any form by the authorities by which the right to carry out the business is granted”) rather than to the relevant CRD provisions.



	<ul style="list-style-type: none"> <li>• <b>Opinion</b> of AG Kokott of 25 May 2023 <a href="#">ECLI:EU:C:2023:431</a>, proposing that the Court dismisses the appeal in Case C-750/21 P, and that in Case C-256/22 P the Court sets aside the judgment of the General Court of 2 February 2022, <i>Pilatus Bank and Pilatus Holding v ECB</i> (T-27/19, EU:T:2022:46) and refers the case back to the General Court.</li> <li>• Judgment scheduled 8 February 2024</li> </ul>
40.	<p><a href="#">Case T-275/19</a>, <b><i>PNB Banka and Others v ECB</i></b>, <i>closed</i></p> <p>[request for annulment of the ECB's decision of 14 February 2019 to conduct an on-site inspection on the premises of <i>PNB Banka AS</i> and its group companies. The applicants rely on ten pleas in law, including that the ECB was not the competent authority, that the contested decision was not 'necessary' within the meaning of Article 12 of the <a href="#">SSM Regulation</a>, that the ECB failed to duly exercise its discretion pursuant to Article 12(1) of the <a href="#">SSM Regulation</a>, that the ECB violated the principle of proportionality, that the ECB violated the applicants' rights to be heard]</p> <p>Note 1:</p> <p>On 15 August 2019, the <a href="#">ECB</a> assessed that <i>AS PNB Banka</i> was failing or likely to fail. On the same day, the <a href="#">SRB</a> decided that resolution action was not necessary in the public interest so that the bank will be wound up under national (Latvian) law. See, also, the <a href="#">press release</a> of the Latvian competent authority, Financial and Capital Market Commission (FCMC). The <a href="#">ECB's press release</a> contains information that provides the background to the three cases instituted by PNB Banka.</p> <p>Note 2:</p> <p>Since 2017, arbitration proceedings are pending between <i>PNB Banka AS</i> and its (former) shareholders against Latvia at the International Centre for the Settlement of Investment Disputes (<a href="#">ICSID</a>). The arbitration concerns supervisory activities relating to the bank. Details on ICSID Case No. ARB/17/47, which relies on the <a href="#">Bilateral Investment Treaty between Latvia and the United Kingdom of Great Britain and Northern Ireland 1994</a>, are available <a href="#">here</a>.</p> <ul style="list-style-type: none"> <li>• Judgment of 7 December 2022, <a href="#">ECLI:EU:T:2022:781</a>, dismissing the action</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-99/23 P</a>, <i>pending</i></p>
41.	<p><a href="#">Case T-301/19</a>, <b><i>PNB Banka and Others v ECB</i></b>, <i>closed</i></p> <p>[request for annulment of the ECB's decision of 1 March 2019 to classify PNB Banka as a significant supervised entity. The applicants rely on ten pleas in law, including that the ECB incorrectly interpreted and applied Article 6(5)(b) of the <a href="#">SSM Regulation</a>, that the ECB failed to examine and appraise carefully and impartially all the relevant aspects of the individual case, that the ECB violated several essential procedural requirements]</p> <p>See the <i>Note</i> to <a href="#">Case T-275/19</a>, reported under no. 40 above.</p> <ul style="list-style-type: none"> <li>• <a href="#">Order</a> of 21 December 2021 that there is no longer any need to adjudicate on the action in so far as it is brought by Others (CR and CT).</li> <li>• Judgment of 7 December 2022, <a href="#">ECLI:EU:T:2022:774</a>, dismissing the action</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-100/23 P</a>, <i>pending</i></p>
42.	<p><a href="#">Case T-330/19</a>, <b><i>PNB Banka and Others v ECB</i></b>, <i>closed</i></p>



	<p>[request for annulment of the ECB's decision of 21 March 2019 regarding the proposed acquisition of qualifying holdings by the applicants in the target bank. The applicants rely on eight pleas in law, including that the assessment period for the ECB pursuant to Article 22(2) of the <a href="#">CRD IV</a> expired prior to the contested decision, that the ECB violated the procedure prescribed under Article 15 of the <a href="#">SSM Regulation</a>, Articles 85 to 87 of the <a href="#">SSM Framework Regulation</a>, that the ECB wrongly interpreted the criteria pursuant to Article 23 of the <a href="#">CRD IV</a> and its Latvian implementation and that the ECB violated the principle of proportionality, legitimate expectations and the nemo auditor principle by failing to take into account its own responsibility for the loss of confidence in the regulatory process]</p> <p>See the Note to <a href="#">Case T-275/19</a>, reported under no. 40 above.</p> <ul style="list-style-type: none"> <li>• <a href="#">Order</a> of 21 December 2021 that there is no longer any need to adjudicate on the action in so far as it is brought by Others (CR and CT).</li> <li>• Judgment of 7 December 2022, <a href="#">ECLI:EU:T:2022:775</a>, dismissing the action</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-101/23 P</a>, <i>pending</i></p>
43.	<p><a href="#">Case T-501/19</a>, <b>Corneli v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB Executive Board's decision of 29 May 2019 (ref. L/LDG/19/182) refusing access to the ECB decision to place <i>Banca Carige SpA</i> under special administration ('amministrazione straordinaria') and to the relevant case file, and order the defendant to produce and submit to the Court the abovementioned decision and all prior, preparatory, related and consequent acts. The applicant relies on four pleas in law: (i) infringement of Article 4 of the <a href="#">ECB Public Access Decision</a> and misapplication of the exception relating to the confidentiality of information that is protected as such under EU law in so far as the contested decision lacks actual evidence indicating the confidential parts of the document at issue, their function and their purpose within the ECB and the risks attached to their disclosure; (ii) failure to state reasons for the confidential nature of the document requested; (iii) infringement of Article 7(1) and 8(1) of the <a href="#">ECB Public Access Decision</a> and failure to state reasons in so far as the conditions for a general presumption of confidentiality are not satisfied and in any event the ECB failed to carry out a specific assessment of the documents to which access was requested; (iv) infringement of the fundamental right to effective judicial protection and of Articles 7(3) and 8(2) of <a href="#">ECB Public Access Decision</a>]</p> <ul style="list-style-type: none"> <li>• Judgment of 29 June 2022 annulling the contested ECB Decision <a href="#">ECLI:EU:T:2022:402</a> (available in <a href="#">French</a> and <a href="#">Italian</a>)</li> </ul>
44.	<p><a href="#">Case T-502/19</a>, <b>Corneli v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB Decision ECB-SSM-2019-ITCAR-11 of 1 January 2019 to dissolve the administrative and supervisory bodies of <i>Banca Carige SpA</i> and to replace them with three special administrators and with a supervisory committee formed of three members, respectively. In support of the action, the applicant relies on five pleas in law: (i) failure to observe the principle of proportionality and infringement of Articles 28 and 29 of the <a href="#">BRRD</a> and Article 69octiesdecies et seq. of the legislative decree No 385/1993 (<a href="#">Italian consolidated law on banking</a>); (ii) failure to give adequate reasoning as regards the requirements of proportionality and of taking a gradual approach imposed by the overall early intervention system; (iii) infringement of the last sentence of Article 29(1) of the <a href="#">BRRD</a> and failure to observe the principle of sound public administration; (iv) infringement of Article 70 of the <a href="#">Italian consolidated law on banking</a>, misuse of powers and a failure to provide sufficient reasoning; (v) infringement of the rules relating to the rights of shareholders contained in the <a href="#">Directive (EU) 2017/1132 on certain aspects of company law</a> and the Italian Civil Code, as well as those which may be enforced through the fundamental principles enshrined in the Charter of Fundamental Rights of the European Union, in the European Convention on Human Rights and in the Italian Constitution on the protection of property, savings, private economic initiative and the right to self-determination of citizens in personal choices].</p>

	<ul style="list-style-type: none"> <li>Judgment of 12 October 2022 annulling both the contested ECB Decision placing Banca Carige SpA under temporary administration as well as the ECB Decision extending the duration of the period of temporary administration <a href="#">ECLI:EU:T:2022:627</a></li> </ul> <p>Summary: The Court did not endorse the ECB's argument that Carige lacked standing, and found an error in the interpretation of Italian law.</p> <p><b>Appeal:</b> <a href="#">C-777/22 P</a> <i>ECB v Corneli</i>, pending and <a href="#">C-789/22 P</a> <i>European Commission v Corneli</i>, pending</p> <p>[The ECB asks the court to set aside the judgment of the General Court delivered on 12 October 2022 in Case T-502/19, <i>Francesca Corneli v ECB</i> (T-502/19, <a href="#">EU:T:2022:627</a>), in so far as it annulled the decisions of the ECB of 1 January 2019 and 29 March 2019, and declare the action brought by Francesca Corneli before the General Court inadmissible and, consequently, dismiss it in its entirety. The European Commission supports the appeal.]</p>
45.	<p><a href="#">Case T-552/19</a>, <i>Malacalza Investimenti v ECB</i>, closed</p> <p>[request for the production of the ECB Decision of 2 January 2019 by which the ECB appointed the temporary administrators of <i>Banca Carige S.p.A</i> and for its annulment. The applicant requests production of this decision as a measure of inquiry, pursuant to Article 91(1)(c) of the <a href="#">Rules of procedure of the General Court</a> pursuant to which the General Court may issue "a request for production of documents to which access has been denied by an institution in proceedings relating to the legality of that denial". At issue is the ECB's refusal to grant access (ECB Decision No LS/LdG/19/185 of 12 June 2019) pursuant to Article 8 of <a href="#">Decision ECB/2004/3</a>. The applicant relies on two pleas in law: (i) incorrect application of <a href="#">Decision ECB/2004/3</a>, infringement of the principles of proportionality and impartiality resulting from the failure to communicate a non-confidential version of the ECB decision of 2 January 2019; infringement of Article 296, second paragraph, TFEU on the ground of a failure to state reasons for the measure refusing access; and infringement of the applicant's rights of defence and right to judicial review; (ii) incorrect application of <a href="#">Decision ECB/2004/3</a> and the incorrect application of provisions on professional secrecy in the <a href="#">SSM Regulation</a> (Article 27) and in <a href="#">CRD IV (Article 53)</a> and on access to file in the <a href="#">SSM Framework Regulation</a> (Article 32)].</p> <ul style="list-style-type: none"> <li>Judgment of 25 June 2020 <a href="#">ECLI:EU:T:2020:294</a> annulling ECB Decision LS/LdG/19/185 of 12 June 2019 refusing access to several documents relating to Decision ECB-SSM-2019-ITCAR-11 placing <i>Banca Carige SpA</i> under temporary administration; judgment by default as the ECB failed to respond to the application within the time limit;</li> </ul> <p><b>Application to set aside:</b> <a href="#">Case T-552/19 OP</a>, <i>Malacalza Investimenti v ECB</i>, closed</p> <ul style="list-style-type: none"> <li>Order of 5 August 2020 suspending the execution of the judgment of 25 June 2020 in Case T-552/19 <a href="#">ECLI:EU:T:2020:362</a> until a ruling has been reached on the opposition proposed by the European Central Bank</li> <li>Judgment of 28 September 2022 <a href="#">ECLI:EU:T:2022:587</a>, dismissing the application to have set aside the Judgment of 25 June 2020 <a href="#">ECLI:EU:T:2020:294</a>, delivered by default, and, consequently, confirming the annulment of the ECB's decision of 12 June 2019 set out in the judgment by default; the judgment is available in French and Italian</li> </ul>
46.	<p><a href="#">Case C-701/19 P</a>, <i>Pilatus Bank v ECB</i>, closed</p> <p>[Request to set aside the contested order of the General Court, to declare that the application for annulment is admissible and to refer the case back to the General Court for it to determine the action for annulment. In support of the action, the applicant relies on 8 please in law alleging that (i) the General Court distorted Maltese law by assuming</p>

	<p>that all powers of the appellant and its board were transferred to the competent person; (ii) the order under appeal violated the guarantee of an effective remedy under EU law; (iii) the General Court erred in assuming that the contested decision is a mere preparatory measure; (iv) the General Court distorted the content of the contested decision as well as more generally the facts of the case; (v) the order under appeal cannot be upheld based on the alternative ground of a possible consultation of the competent person with the directors; (vi) the order under appeal cannot be upheld based on the alternative ground of an involvement of a lawyer in the case; (vii) the order under appeal cannot be upheld based on the alternative ground of the contested decision being contained in a mere email; (viii) the application has not become devoid of purpose]</p> <ul style="list-style-type: none"> <li>• Order of 4 February 2021, declaring the appeal manifestly unfounded; <a href="#">ECLI:EU:C:2021:99</a></li> </ul>
47.	<p><a href="#">Case T-730/19</a>, <b>CR and CT v ECB</b> [previously, <i>PNB Banka and Others v ECB</i>], <i>closed</i></p> <p>[request for annulment of the ECB's decision of 15 August 2019 that <i>PNB Banka</i> is failing or likely to fail. In support of the action, the applicant relies on 13 pleas in law, including lack of competence, breach of the principle of proportionality, duty to state reasons, principle of equal treatment, legal certainty and legitimate expectations]</p> <ul style="list-style-type: none"> <li>• <a href="#">Order</a> of 30 September 2021 to remove the names of the applicants PNB Banka AS, HG, HH, HI, HJ, HL, HM, HN and HO from the register of the General Court</li> <li>• <a href="#">Order</a> of 4 January 2022 that there is no longer any need to adjudicate on the action and on the application for leave to intervene submitted by the Republic of Latvia.</li> </ul>
48.	<p><a href="#">Case T-797/19</a>, <b>Anglo Austrian AAB Bank and Belegging-Maatschappij 'Far-East' v ECB</b>, <i>closed</i></p> <p>[request for annulment of the ECB decision of 14 November 2019 by which <i>Anglo Austrian AAB Bank AG</i>'s authorisation as a credit institution was withdrawn and to give the case priority pursuant to Article 67(2) of the <a href="#">Rules of procedure of the General Court</a>. The applicants rely on six pleas of law: (i) infringement of Article 14(5) of the <a href="#">SSM Regulation</a>, in so far as it incorrectly applied the national law applicable to the withdrawal of authorisation under Article 4(3) of that regulation; (ii) infringement the principle of proportionality, in so far as, by withdrawing authorisation, the defendant unlawfully used the last resort out of the possible means of supervision; (iii) infringement of the right to an effective remedy, in so far as it did not suspend operation of the contested decision; (iv) infringement of Article 41 of the <a href="#">Charter</a>, Articles 31 and 32 of the <a href="#">SSM Regulation</a>, Paragraph 70(4) of the <a href="#">Bankwesengesetz (Austrian Law on banking)</a> and Article 6 of the European Convention on Human Rights (<a href="#">ECHR</a>), in so far as it failed to respect <i>Anglo Austrian AAB Bank AG</i>'s procedural rights guaranteed therein; (v) infringement <i>Belegging-Maatschappij 'Far-East' B.V.</i>'s right to property, in so far as it withdrew <i>Anglo Austrian AAB Bank AG</i>'s authorisation and thereby destroyed the economic value of the shares in <i>Anglo Austrian AAB Bank AG</i> held by <i>Belegging-Maatschappij 'Far-East' B.V.</i>].</p> <ul style="list-style-type: none"> <li>• Order of 20 November 2019 suspending the ECB Decision of 14 November 2019 that withdrew the banking license <a href="#">ECLI:EU:T:2019:801</a>. Hearing scheduled on 24 January 2020 <a href="#">Summary by René Smits</a></li> <li>• Order of 7 February 2020, the President of the General Court revoked his earlier Order suspending the revocation of the banking license of <i>Anglo Austrian AAB Bank AG</i> <a href="#">ECLI:EU:T:2020:37</a> (see also the <a href="#">Court's press release No. 14/20</a>)</li> <li>• Judgment of 22 June 2022; <a href="#">ECLI:EU:T:2022:389</a>, in which the Court confirms the withdrawal of <i>AAB Bank</i>'s authorisation as a credit institution and considers that this withdrawal was justified inter alia by <i>AAB Bank</i>'s serious breaches of</li> </ul>

	<p>the rules on anti-money laundering and countering the financing of terrorism; judgment available in 22 languages (including English); summary available in all languages, including in English (<a href="#">here</a>).</p> <p><b>Appeal:</b> <a href="#">Case C-579/22 P</a>, <i>Anglo Austrian AAB v ECB and Far East</i>, <i>pending</i></p> <p>[request to set aside the judgment and annul the ECB decision withdrawing the bank's authorisation as a credit institution, <i>in eventu</i> refer the case back to the General Court. The appellant relies on seven grounds of appeal. This includes the claim that the General Court exceeded the limits of its jurisdiction and infringed Article 263 TFEU by expressly adjudicating on points of contention relating to the interpretation and application of Austrian national law].</p>
49.	<p><a href="#">Case T-50/20</a>, <i>PNB Banka v ECB</i>, <i>closed</i></p> <p>[request for annulment of the ECB decision of 19 November 2019 by which the ECB refuses to comply with the request to instruct the administrator of PNB Banka to grant access to the bank, its information, staff and resources. The applicants rely on five pleas of law, alleging that: (i) the ECB erroneously assumed that the requested instruction is outside its competences; (ii) the ECB violated the bank's right to an effective remedy; (iii) the contested decision violated the bank's right to be heard; (iv) the ECB violated the bank's right to an appropriately reasoned decision; (v) the ECB violated the <i>nemo auditur</i> principle because the appointment of the administrator and the interference with the representation of the bank by its board as its lawful representative is due to wrongful conduct by the ECB].</p> <ul style="list-style-type: none"> <li>Order of 12 March 2021 dismissing the action for annulment as being manifestly unfounded in law <a href="#">ECLI:EU:T:2021:141</a></li> </ul> <p><b>Appeal:</b> <a href="#">Case C-326/21 P</a>, <i>PNB Banka v ECB</i>, <i>closed</i></p> <ul style="list-style-type: none"> <li>Judgment of 15 September 2022 <a href="#">ECLI:EU:C:2022:693</a>, in which the Court dismisses the appeal</li> </ul>
50.	<p><a href="#">Case T-72/20</a>, <i>Satabank v ECB</i>, <i>pending</i></p> <p>[request for annulment of the ECB's decision dated 26 November 2019 by which the ECB refuses to grant access to its file. The applicant relies on eight pleas in law, alleging that (i) the ECB failed to take into account the applicant's primary substantive right of access to its file; (ii) the ECB decision is based on an unduly narrow interpretation of Article 32(1) of <a href="#">SSM Framework Regulation</a>; (iii) the ECB decision violated the applicant's right to an adequately reasoned decision; (iv) the right to be heard has been violated; (v) the principle of legal certainty has been violated; (vi) the principle of proportionality has been violated; (vii) the ECB violated the <i>nemo auditur principle</i>; (viii) the right to an effective remedy pursuant to Article 47 of the <a href="#">Charter</a> has been violated</p>
51.	<p><a href="#">Case T-494/20</a>, <i>Satabank v ECB</i>, <i>closed</i></p> <p>[request for annulment of the decision of 15 May 2020 by which the ECB refused to take over direct supervision and give instructions to the Competent Person so as to ensure that the Bank is no longer denied access to its offices, information, systems, files, documents, staff and resources, based on eight pleas in law, including that the ECB was mistaken to consider it competent to take the action requested, lack of reasoning, violation of Articles 16, 17, 41 and 47 of the Charter and the SSM Regulation and SSM Framework Regulation. See also <a href="#">Case T-72/20</a> and <a href="#">Case T-563/20</a>]</p> <ul style="list-style-type: none"> <li>Order of the General Court of 8 November 2021, <a href="#">ECLI:EU:T:2021:797</a>, finding all pleas to be manifestly unfounded.</li> </ul> <p>After an assessment of the SSM which resonates the earlier <i>L-Bank</i> case law, finding that the ECB is exclusively competent to carry out the tasks in Article 4(1) SSM Regulation in respect of all credit institutions (para 23), while "national competent authorities are required to assist the ECB in carrying out the tasks conferred to it by [the <a href="#">SSM Regulation</a>] by a decentralised implementation of some of those tasks with regard</p>

	<p>to less significant credit institutions” (para 24). The ECB is required “to ensure the effective and consistent functioning of [the SSM]” (para 25) and “retains important prerogatives even where the [NCAs] exercise the supervisory tasks referred to in Article 4(1)(b) and (d) to (i) of [the <a href="#">SSM Regulation</a>] and that the existence of such prerogatives reveals the subordinate nature of the intervention of the national authorities when they implement those tasks” (para 27). Although the ECB may not give individual guidelines it does have the power “to divest a national authority of direct prudential supervision of an entity”, a power which comes with “a broad discretion” to be exercised “when necessary to ensure consistent application of high supervisory standards” (para 29). The ECB had denied <i>Satabank</i>’s request to take over direct supervision and to instruct the Competent Person appointed by the <a href="#">Maltese Financial Services Authority</a> to get access to the bank’s offices, information, systems, files, documents, staff and resources, as “this matter [falls] outside the ECB’s competence”. The ECB is not bound to carry out direct supervision upon request but may do so, but “solely in order to achieve the objective of ‘[ensuring] a consistent application of high supervisory standards’” (para 34). <i>Satabank</i>’s request had as its purpose that the bank’s shareholders’ lawyer can effectively represent them. This “manifestly bears no relation to the need to ‘[ensure] consistent application of high supervisory standards’, laid down in Article 6(5)(b) of [the <a href="#">SSM Regulation</a>]” (para 35). As “the applicant’s request was manifestly unrelated to the objective of a consistent application of high supervisory standards”, the ECB did not infringe the relevant provisions and the pleas are manifestly unfounded (para 36). The same is held for the other pleas submitted. The Court concludes by saying that the ECB respected the <i>Trasta</i> judgment* in that it “acknowledged the applicant’s representation for the purposes of bringing the present action” and “acknowledged the applicant’s lawyer as a legitimate negotiating partner, as demonstrated by the fact that the email in response to the applicant’s request was sent to him as the applicant’s representative” (para 47).</p> <p>* See the Judgment in joined cases C-663/17 P, C-665/17 P and C-669/17 of 5 November 2019 <a href="#">ECLI:EU:C:2019:923</a>, under 8 above.</p>
52.	<p><a href="#">Case T-563/20</a>, <b><i>Satabank v ECB</i></b>, <i>closed</i></p> <p>[request for annulment of the ECB decision of 30 June 2020 revoking <i>Satabank</i>’s authorisation as a credit institution, relying on two pleas in law: ‘the contested decision is fundamentally vitiated by the preceding measures of the ECB and of the <a href="#">Maltese Financial Services Authority</a> (MFSA) and the ECB’s failure to deal with them appropriately in the contested decision’; alleged anti-money laundering and counter terrorist financing (AML/CFT) issues have not been determined by the competent AML/CFT authorities, and alleged non-compliance with regulatory capital requirements not proven] [see, also, <a href="#">Case T-72/20</a>, <a href="#">Case T-494/20</a>]</p> <ul style="list-style-type: none"> <li>• Hearing on Tuesday 22 February 2022</li> <li>• <a href="#">Order</a> of 8 April 2022 removing the case from the register</li> </ul>
53.	<p><a href="#">Case T-230/20</a>, <b><i>PNB Banka v ECB</i></b>, <i>closed</i></p> <p>[request for the annulment of ECB’s Decision of 17 February 2020 regarding the withdrawal of <i>PNB Banka</i>’s banking licence, relying on thirteen pleas in law, including insufficient and misleading procedural information in the decision; alleged illegitimate use of the two-stage procedure for adopting the contested decision (involving a proposal of the national competent authority) despite the ECB’s earlier Decision by which the ECB took over direct supervision of the applicant [this decision of 1 March 2020 is subject to appeal proceedings in <a href="#">Case T-301/19</a>; see under 41 above]; several alleged procedural irregularities; insufficient reasoning; violation of the right to be heard; alleged spurious reliance on the ECB’s erroneous FOLTF assessment [this FOLTF assessment was appealed in <a href="#">Case T-730/19</a>, which was however closed; see under 47 above].</p> <ul style="list-style-type: none"> <li>• Order of 8 February 2021 dismissing the action for annulment <a href="#">ECLI:EU:T:2021:68</a>; restoration of the authorisation would be of little use to the</li> </ul>



	<p>applicant as it did not intend to resume banking activities, and can neither reverse the liquidation process nor revoke the appointment of the court-appointed administrator; the applicant's insistence that the ECB give instructions to the court-appointed administrator to restore the management board's access to the bank is unrelated to the withdrawal of the license and the subject of separate proceedings (<a href="#">Case T-50/20</a>; see under 49 above)</p> <ul style="list-style-type: none"> <li>Judgment of 7 December 2022, <a href="#">ECLI:EU:T:2022:782</a>, in which the Court dismissed the action</li> </ul> <p><b>Appeal:</b> Case <a href="#">C-102/23 P</a>, <i>pending</i></p>
54.	<p><a href="#">Case C-114/20 P(R)</a>, <b>Anglo Austrian AAB and Belegging-Maatschappij« Far-East » v ECB</b>, <i>closed</i></p> <p>[proceedings for interim measures 1; appeal against Order in <a href="#">Case T-797/19</a>; see under 48 above]</p> <ul style="list-style-type: none"> <li>Order of 17 December 2020 rejecting the appeal of Anglo Austrian AAB AG against the rejection of interim measures <a href="#">ECLI:EU:C:2020:1059</a></li> </ul>
55.	<p><a href="#">Case C-207/20 P(R)</a>, <b>Anglo Austrian AAB et Belegging-Maatschappij "Far-East" v ECB</b>, <i>closed</i></p> <p>[proceedings for interim measures 2 appeal concerning <a href="#">Case T-797/19</a>; see under 48 above]</p> <ul style="list-style-type: none"> <li>Order of the Vice President of the CJEU of 20 December 2020 dismissing the appeal in its entirety as being partly inadmissible, partly ineffective and partly unfounded; <a href="#">ECLI:EU:C:2020:1057</a></li> </ul>
56.	<p><a href="#">Case T-504/19</a>, <b>Crédit Lyonnais v ECB</b>, <i>closed</i></p> <p>[request to annul the Decision ECB-SSM-2019-FRCAG-39 adopted by the ECB on 3 May 2019, in so far as it refuses to authorise the applicant to exclude from the calculation of the leverage ratio 34% of its exposures to the <i>Caisse des dépôts et consignations</i> ('the CDC'). The applicant relies on three pleas in law: (i) infringement of Article 266 TFEU and of the force of res judicata of the General Court's judgment. The applicant submits that, by basing its decision on grounds which have already been examined and dismissed by the General Court in the judgment of 13 July 2018, <i>Crédit agricole v ECB</i> (T-758/16, <a href="#">EU:T:2018:472</a>) and by continuing to highlight a theoretical risk of default by the French State and a risk of catastrophic sale of assets without demonstrating the cogency of those allegations, the ECB infringed Article 266 TFEU and <i>res judicata</i>; (ii) infringement of Article 429(14) and of Article 400(1)(a) of <a href="#">CRR</a> and, second, the misuse of powers by the ECB. The applicant considers that, by basing its decision on the existence of a concentration risk on the the CDC to entirely refuse to exclude the <i>Crédit Lyonnais</i> ('LCL') exposures to CDC from its leverage ratio, the ECB imposes a prudential requirement on LCL in respect of the concentration on sovereign exposures which Article 400(1)(a) of <a href="#">CRR</a> does not allow it to impose and uses its powers under Article 429(14) of the that regulation for purposes other than those provided for in that Article; (iii) manifest error of assessment by the ECB by persisting in failing to take into account the specific characteristics of regulated savings, thereby breaching its obligation to examine, with care and impartiality, all the relevant elements of the case at hand and to draw the necessary conclusions from it. The applicant considers that in so doing the ECB also makes a manifest error of assessment of the prudential risks relating to regulated savings.</p> <ul style="list-style-type: none"> <li>Judgment of 14 April 2021, <a href="#">ECLI:EU:T:2021:185</a>, annulling the ECB decision in respect of its refusal to authorise <i>Crédit lyonnais</i> to exclude from the calculation of its leverage ratio 34% of its exposure to the CDC. The General Court, for the first time in litigation on prudential supervision, explicitly set out the circumstances in which methodologies that limit discretion are lawful.]</li> </ul>



	<p><b>Appeal:</b> <a href="#">C-389/21 P</a>, <i>ECB v Crédit Lyonnais</i>, <i>closed</i></p> <p>[The ECB submits that the judgment under appeal should be set aside, because the General Court: (i) exceeded the limits of judicial review by substituting its own assessment of complex economic factors for that of the ECB, in breach of the standard established by EU courts on the matter; (ii) breached its duty to state reasons by not allowing the ECB to understand in what way its assessment of the dual guarantee by the State, issued in the context of the regulated savings, could be flawed; (iii) distorted the evidence that had been submitted to it in the course of the proceedings by a manifestly incorrect reading, both of the decision contested at first instance (decision ECB-SSM-2019-FRCAG-39 of 3 May 2019), and of the methodology applied by the ECB and against which the request for exemption submitted by <i>Crédit Lyonnais</i> had been examined; (iv) infringed <a href="#">Article 4(1)(94) of CRR</a> by adding to the definition of the risk of excessive leverage the criteria that are not there, and <a href="#">Article 429(14)</a> thereof, concerning the exemption of certain exposures from the calculation of the leverage ratio, thus depriving the ECB of the discretion granted to it by virtue of that article.]</p> <ul style="list-style-type: none"> <li>• Opinion of AG Emiliou of 27 October 2022, <a href="#">ECLI:EU:C:2022:844</a></li> <li>• Judgment of the Court (First Chamber) of 4 May 2023 in <a href="#">Case C-389/21 P</a>, <b>European Central Bank v Crédit Lyonnais</b>, <a href="#">ECLI:EU:C:2023:368</a></li> </ul> <p>[(i) upholding the refusal of the ECB to exclude for the purposes of the calculation of the leverage ratio of <i>Crédit Lyonnais</i> 34% of its exposures to the <i>Caisse des dépôts et consignations</i>, and (ii) annulling the contrary decision of the General Court exceeding the limits of its power of judicial review substituting its own assessment of the risk of fire sales of assets to which <i>Crédit Lyonnais</i> was exposed for that of the ECB].</p> <p><a href="#">Extensive summary of the appeal judgment by Elia Cerrato García</a></p>
57.	<p><a href="#">Case T-427/21</a>, <i>Trasta Komerbanka v ECB</i>, <i>pending</i></p> <p>[request for financial compensation of EUR 162 million for the harm resulting from the revocation of the license in July 2016, relying on six pleas, including failure to properly notify the decision to the <i>Trasta</i>'s authorized representatives and vitiation of the licence withdrawal decision due to alleged serious procedural irregularities, exceeding of the ECB's mandate when withdrawing the licence on grounds of money laundering matters and the enforcement of national law and claiming damage resulting from the liquidation as a result of the withdrawal of the banking licence.]</p> <ul style="list-style-type: none"> <li>• See, also, <a href="#">Case T-247/16</a>, <i>Trasta Komerbanka and others v ECB</i> and the appeal cases against the resulting Order of the General Court of 12 September 2017, <a href="#">ECLI:EU:T:2017:623</a>: Case <a href="#">C-663/17 P</a> (appeal by the ECB), Case <a href="#">C-665/17 P</a> (appeal by the Commission) and Case <a href="#">C-669/17 P</a> (appeal by <i>Trasta Komerbanka</i>), and the judgment of the CJEU in joined cases C-663/17 P, C-665/17 P and C-669/17 of 5 November 2019 <a href="#">ECLI:EU:C:2019:923</a>.</li> <li>• See, also, <a href="#">Case T-698/16</a>, <i>Trasta Komerbanka and others v ECB</i>.</li> </ul>
58.	<p><a href="#">Case T-428/21</a>, <i>Fursin and Others v ECB</i>, <i>pending</i></p> <p>[request by <i>Trasta</i>'s shareholders for financial compensation of EUR 25 million for the harm resulting from the revocation of the license of <i>Trasta Komerbanka AS</i> in July 2016, relying on six pleas, largely equivalent of those invoked by <i>Trasta</i> itself in its case against the revocation of the license (Case T-427/21)]</p>
59.	<p><a href="#">Case T-647/21</a>, <i>Sberbank v ECB</i>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 August 2021 imposing absorption interest under Sec. 97(1) of the Austrian Banking Act (<a href="#">Bankwesengesetz</a>, "BWG"). In support of this claim, the Applicant submits twelve pleas in law, including the violation of the prohibition of double punishment pursuant to Article 50 of the <a href="#">Charter</a> and Article 4 of <a href="#">ECHR</a>, violation of Article 49 of the <a href="#">Charter</a> and Article 7 of <a href="#">ECHR</a> by imposing a penalty exceeding the amount limits laid down in Article 18(1) of Regulation (EU) No 1024/2013 and violation of Article 17 of the <a href="#">Charter</a> and Article 1 of the First Additional</p>

	Protocol to the <a href="#">ECHR</a> ; i.a. alleging that Article 97 of the Austrian Banking Act is not applicable if no advantage is gained or no loss is avoided by exceeding the large exposure limit and that such advantages gained or losses avoided are not present in this case and that the application of absorption interest is time-barred].
60.	<p><a href="#">Case T-667/21</a>, <b>BAWAG PSK v ECB</b>, <i>pending</i></p> <p>[request for annulment of ECB Decision of 2 August 2021 imposing absorption interest under Sec. 97(1) of the Austrian Banking Act (“BWG”). In support of this claim, the Applicant submits five pleas in law (i) lack of competence; (ii) the imposition of absorption interest under Sec. 97(1) BWG is time barred; (iii) the applicant did not breach the large exposure limit laid down in Article 395(1) of <a href="#">CRR</a>; (iv) the contested decision infringes the applicant’s right to be heard; (v) the amount of absorption interest was incorrectly calculated]</p> <p>Note: The imposition of absorption interest is a measure under <a href="#">Austrian law</a>, unique in the euro area, under which the competent authority imposes a pecuniary measure for the breach of the large exposure rule (beyond any sanction which may also be applied). First labelled by the ECB as a measure that remained outside ECB competences (see footnote 4 in its <a href="#">letter to supervised entities of 31 March 2017</a>) and, then, “classified as an administrative measure within the meaning of <a href="#">Article 65(1)</a> of Directive 2013/36” (i.e., the <a href="#">CRD</a>) in paragraph 42 of the CJEU’s judgment of 7 August 2018 in Case C-52/17 (<b>VTB Bank (Austria) AG v Finanzmarktaufsichtsbehörde</b>), <a href="#">ECLI:EU:C:2018:648</a>, which concerned <a href="#">the Austrian NCA</a>, absorption interest imposed by the ECB is currently being contested in two court cases: <a href="#">Case T-667/21 (BAWAG v ECB)</a> and <a href="#">Case T-647/21 (Sberbank v ECB)</a>; see previous entry.</p>
61.	<p><a href="#">Case T-99/22</a>, <b>Sberbank Europe v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 21 December 2021 imposing absorption interest under Sec. 97(1) of the Austrian Banking Act rendered against <i>Sberbank</i> (No ECB-SSM-2021-ATSBE-12, ESA-2020-00000051) without replacement pursuant to Article 263, 264 TFEU. The applicant relies on fourteen pleas in law which include the alleged violation of prohibition of double punishment pursuant to Article 50 of the <a href="#">Charter of the Fundamental Rights</a> (Charter) of the European Union and Article 4 of the European Convention of Human Rights (<a href="#">ECHR</a>), the alleged violation of Articles 49 of the CFR and Article 7 of the ECHR, Article 17 of the Charter and Article 6 of the ECHR].</p>
62.	<p><a href="#">Case T-182/22</a>, <b>Deutsche Bank and Others v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 as regards the prudential treatment of irrevocable payment commitments (“IPC”). The applicant relies on three pleas in law, including (i) the violation of the ECB’s powers conferred by Article 4 and Article 16 of Regulation (EU) No 1024/2013 and breaching basic principles of Union law, (ii) a violation of the principle of proportionality and (iii) a violation of the principle of good administration and legal certainty].</p> <p>For other IPC-related proceedings see no. 21 <i>et seq.</i> above.</p>
63.	<p><a href="#">Case T-186/22</a>, <b>BNP Paribas v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRBNP-7), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. The applicant relies on four pleas in law, including (i) error of law and infringement of Article 266 TFEU, (ii) manifest error of appreciation and a breach of the principle of good administration, (iii) an error of law by reason of a deprivation of effectiveness of the EU law provisions governing IPC and (iv) a breach of the principle of proportionality].</p> <p>For other IPC-related proceedings see no. 21 <i>et seq.</i> above</p>

64.	<p><a href="#">Case T-187/22</a>, <b>BPCE and Others v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRBPC-10), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. For the pleas of law, see <a href="#">Case T-186/22</a> above].</p>
65.	<p><a href="#">Case T-188/22</a>, <b>Crédit agricole and Others v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRCAG-5), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. For the pleas of law, see <a href="#">Case T-186/22</a> above].</p>
66.	<p><a href="#">Case T-189/22</a>, <b>Confédération nationale du Crédit Mutuel and Others v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRCMU-6), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. For the pleas of law, see <a href="#">Case T-186/22</a> above].</p>
67.	<p><a href="#">Case T-190/22</a>, <b>Banque postale v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRBPL-1), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. For the pleas of law, see <a href="#">Case T-186/22</a> above].</p>
68.	<p><a href="#">Case T-191/22</a>, <b>Société générale v ECB</b>, <i>pending</i></p> <p>[request for annulment of the ECB Decision of 2 February 2022 (ECB-SSM-2022-FRSOG-7), in so far as it prescribes measures to be taken regarding irrevocable payment commitments (IPC) in respect of the deposit guarantee schemes or the resolution funds. For the pleas of law, see <a href="#">Case T-186/22</a> above].</p>
69.	<p><a href="#">Case T-612/20</a>, <b>Malacalza Investimenti v ECB</b>, <i>pending</i></p> <p>[<a href="#">application</a> to annul and declare null and void the ECB decisions in relation to <i>BaSpA</i> to dissolve the management and supervisory bodies and to replace them with three special administrators and with a supervisory committee composed of three members, respectively, as well as the subsequent decisions to extend the extraordinary administration; the applicant is relying on six pleas in law, including a failure to observe the principle of proportionality, a breach of the obligation to state reasons, both leading to infringements of the <a href="#">BRRD</a>].</p> <p>•Hearing held on 27 October 2022</p>
70.	<p><a href="#">Case T-134/21</a>, <b>Malacalza Investimenti and Malacalza v ECB</b>, <i>pending</i></p> <p>[action to obtain compensation for harm suffered as a result of various actions of ECB, relating to the exercise of its supervisory functions over <i>Banca Carige S.p.A.</i> and consisting both of failures to act when it should have done so and harmful actions.]</p> <p>See, also: <a href="#">Case T-612/20</a>, <b>Malacalza Investimenti v ECB</b>, <i>pending</i> at 69 above, and <a href="#">Case T-501/19</a>, <b>Corneli v ECB</b>, <i>closed</i> at 43 above, <a href="#">Case T-502/19</a>, <b>Corneli v ECB</b>, <i>closed</i> at 44 above, <a href="#">Case T-552/19</a>, <b>Malacalza Investimenti v ECB</b>, <i>closed</i> at 45 above.</p>

	<ul style="list-style-type: none"> <li>•Hearing scheduled for 26 September 2023</li> </ul>
71.	<p><a href="#">Case T-323/22</a>, <b>PH and Others v ECB</b>, <i>pending</i></p> <p>[request for the <i>ex tunc</i> annulment of the ECB Decision of 22 March 2022 on the objection to the acquisition of qualifying holdings and the exceeding of 50% of the capital and voting rights; the applicant is relying on eleven pleas in law, i.a. an incorrect application of the German Banking Act (<i>Gesetz über das Kreditwesen</i>; KWG) with regard to ‘reliability’, ‘professional competence’, ‘financial soundness’ as well as ‘compliance with prudential requirements’].</p>
72.	<p><a href="#">Case T-632/22</a>, <b>Sberbank Europe v ECB</b>, <i>pending</i></p> <p>[request for the annulment of the ECB’s refusal by means of its decision dated 27 July 2022 to grant the applicant access to a failing or likely to fail-assessment pursuant to Art. 18 <a href="#">SRMR</a> which the ECB made on 27 February 2022 with respect to the applicant’s subsidiary in Slovenia, <i>Sberbank banka d.d.</i></p>
73.	<p><a href="#">Case T-67/23</a>, <b>UH v ECB</b>, <i>closed</i></p> <p>[action for annulment of the ECB’s decision of 13 December 2022 withdrawing the applicant’s authorisation as a credit institution (ECB-SSM-2022-DE-22 WHD-2022-0001), based on five pleas, including lack of adequate reasoning and infringement of the right to be heard, alleging violations of Article 296(2) TFEU and Article 41(2)(c) of the Charter of Fundamental Rights, the <i>Grundgesetz</i> (German Basic Law), the <i>Kreditwesengesetz</i> (German Act on the Credit System) and the <i>Verwaltungsverfahrensgesetz</i> (German Law on administrative procedure. Public sources (<a href="https://thebanks.eu/banks/11272">https://thebanks.eu/banks/11272</a>) seem to indicate that the applicant was <a href="#">Euro City Bank</a>.]</p> <ul style="list-style-type: none"> <li>• <a href="#">Order of the General Court of 7 July 2023</a> removing the case from the register.</li> </ul>
74.	<p><a href="#">Case T-67/23 R</a>, <b>UH v ECB</b>, <i>closed</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Order of the President of the General Court of 31 May 2023</a> dismissing the application for interim measures</li> </ul>
75.	<p><a href="#">Case T-100/23</a>, <b>ABLV Bank v ECB</b>, <i>pending</i></p> <p>[request to annul the ECB’s decision dated 8 December 2022 by which the ECB rejected the applicant’s request for access to ECB documents pursuant to the rules governing public access to documents.]</p>
76.	<p><a href="#">Case T-366/23</a>, <b>YH v ECB</b>, <i>pending</i></p> <p>[request to annul the ECB’s decision dated 5 May 2023 (ECB-SSM-2023-DE-12 QLF-2022-0054, QLF-2023-0020, QLF-2023-0021), which opposes the acquisition by the applicant of a qualifying holding in M.M. Warburg &amp; Co (AG &amp; Co.) Kommanditgesellschaft auf Aktien, M.M. Warburg &amp; CO Hypothekenbank Aktiengesellschaft and Marcard, Stein &amp; Co AG, based on seven pleas of law, <i>inter alia</i> alleging infringements of procedural requirements, factual errors and misinterpretation of the concept of a ‘qualifying holding’ by incorrectly calculating and attributing voting rights and capital share and misjudging the facts relating thereto, and misinterpreting <a href="#">Article 23(1), (2) of the Capital Requirements Directive</a>, and the transposing provisions of the <i>Kreditwesengesetz</i> (German Banking Act).]</p>
77.	<p><a href="#">Case T-421/23</a>, <b>Versobank v ECB</b>, <i>pending</i></p> <p>[action for damages allegedly resulting from the license withdrawal on 17 July 2018 and the ECB’s related conduct, including the interference with the applicant’s representation. The applicant argues violation of the applicant’s rights by failing to involve any</p>

	representative of the applicant in the proceedings leading to the license withdrawal and by wrongly assuming that the liquidators were the only representatives of the applicant; the alleged “significant material damage” is said to await quantification “once an effective representation of the applicant has been restored” as “on-going nature of the interference with the rights of representation” is alleged.]
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## 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.	<p><a href="#">Case T-22/16</a>, <b>Comprojecto-Proyectos e Construções and Others v ECB</b>, <i>closed</i></p> <p>[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 <i>Banco de Portugal</i>. 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]</p> <ul style="list-style-type: none"> <li>Order of 9 March 2017 rejecting the claim as inadmissible <a href="#">ECLI:EU:T:2017:172</a></li> </ul>
2.	<p><a href="#">Case T-641/17</a>, <b>Ferri v ECB</b>, <i>closed</i></p> <p>[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 the <a href="#">Italian consolidated law on banking</a> following on from the aforementioned failure by <i>Banca d'Italia</i> to enact those implementing provisions; to order <i>Banca d'Italia</i> 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 <a href="#">Banca di Credito Cooperativo di Frascati</a>'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]</p> <ul style="list-style-type: none"> <li>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 <i>Banca d'Italia</i>'s claim in support of the ECB <a href="#">ECLI:EU:T:2018:113</a></li> </ul>



### 3. Actions against SRB Decisions

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*, SA, 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. These judicial proceedings are described in the sections below.

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

No	Case
1.	<p><a href="#">Case T-365/16</a>, <i>Portigon v SRB</i>, <i>closed</i></p> <p>[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 (<i>Bundesanstalt für Finanzmarktstabilisierung</i>) 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 <a href="#">SRM Regulation</a> in conjunction with Article 8(1)(a) of the <a href="#">Council Implementing Regulation (EU) 2015/81</a> and Article 103(7) of the <a href="#">BRRD</a>; (ii) infringement of Article 16 and Article 20 of the Charter of Fundamental Rights of the European Union ('<a href="#">Charter</a>'); (iii) in the alternative, infringement of the first, second and third subparagraphs of Article 70(2) of the <a href="#">SRM Regulation</a> in conjunction with Article 8(1)(a) of the <a href="#">Council Implementing Regulation (EU) 2015/81</a> and Article 103(7) of the <a href="#">BRRD</a>; (iv) in the alternative, infringement of Article 70(6) <a href="#">SRM Regulation</a> in conjunction with Article 5(3) and (4) of the <a href="#">Delegated Regulation 2015/63</a>; (v) in the alternative, infringement of Article 70(6) of the <a href="#">SRM Regulation</a> in conjunction with Article 6(8)(a) of the <a href="#">Delegated Regulation 2015/63</a>; (vi) infringement of Article 41(1) and (2)(a) of the <a href="#">Charter</a>, 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 <a href="#">Charter</a>, as the defendant did not give adequate reasons for its decisions]</p> <ul style="list-style-type: none"> <li>Judgment of 28 November 2019 annulling the SRB Decision of 15 April 2016 on the <i>ex-ante</i> contributions to the SRF for 2016 (SRB/ES/SRF/2016/06) and the SRB Decision of 20 May 2016 on the adjustment of the contributions <i>ex-ante</i> for 2016 complementing the SRB Decision of 15 April 2016 on the <i>ex-ante</i> contributions to the SRB (SRB/ES/SRF/2016/13) <a href="#">ECLI:EU:T:2019:824</a></li> </ul>
2.	<p><a href="#">Case T-323/16</a>, <i>Banco Cooperativo Español v SRB</i>, <i>closed</i></p> <p>[request for annulment of the SRB Decision of 26 April 2016 on the <i>ex-ante</i> contributions to the SRF for 2016. The applicant relies on two pleas in law: (i) declaration that Article 5(1) of the <a href="#">Delegated Regulation 2015/63</a> is inapplicable because it infringes Article 103(7) of the <a href="#">BRRD</a>, in that it establishes a system of calculation that imposes on an institution with a conservative risk profile an <i>ex-ante</i> contribution of an institution with a very high risk profile; infringes Article 16 of the <a href="#">Charter</a>, 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 <a href="#">BRRD</a> and Article 70 of the <a href="#">SRM Regulation</a>, interpreted in the light of Article 16 of the <a href="#">Charter</a> and of the principle of proportionality]</p> <ul style="list-style-type: none"> <li>Judgment of 28 November 2019 annulling the SRB Decision of 15 April 2016 on the <i>ex-ante</i> contributions to the SRF for 2016 (SRB/ES/SRF/2016/06) <a href="#">ECLI:EU:C:2013:856</a></li> </ul>

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*, *closed*

[request for annulment of the SRB Decision of 20 May 2016 on the adjustment of the *ex-ante* contributions to the SRF for 2016; 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]

- Judgment in joined cases [T-377/16](#), [T-645/16](#), [T-809/16](#) rejecting the actions brought in cases T-645/16 and T-809/16 as inadmissible; in case T-377/16 annulling the SRB Decision of 15 April 2016 on the *ex-ante* contributions for 2016 to the SRF (SRB/ES/SRF/2016/06) and the SRB Decision of 20 April 2016 on the adjustment of the *ex-ante* contribution for 2016 complementing the SRB Decision of 15 April 2016 on the *ex-ante* contributions for 2016 to the SRF (SRB/ES/SRF/2016/13) [ECLI:EU:T:2019:823](#)

5. [Case T-466/16](#), *NRW. Bank v SRB*, *closed*

[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]

- Judgment of 27 June 2019 [ECLI:EU:T:2019:445](#)
- Order of 4 September 2019 rectifying some inaccuracies in the German version of the judgment [ECLI:EU:T:2019:561](#)

Appeal: [Case C-662/19 P](#), *NRW. Bank v SRB*, *closed*

- Judgment of 14 October 2021 setting aside the judgment of the General Court and referring the case back to the General Court

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 2017 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](#)

**Appeal:** [Case C-69/19 P](#), **Credito Fondiario v SRB**, *closed*

- Judgment of 5 March 2020 dismissing the appeal 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]

- Hearing 13 February 2019 in joined Cases [T-377/16](#), [T-645/16](#) and [T-809/16](#)

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](#)<sup>2</sup>, 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**, *closed*

[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 and the illegality of [Delegated Regulation 2015/63](#)]

- Judgment of 23 September 2020 [ECLI:EU:T:2020:435](#) annulling the SRB Decision

**Appeal:** [Case C-621/20 P](#), **SRB v Landesbank Baden-Württemberg**, *closed*

[the SRB appeals the judgment on two grounds: (i) the General Court misinterpreted and misapplied Article 85(3) of its Rules of Procedure in essence by considering inadmissible the evidence brought by the SRB in the proceeding; (ii) the General Court overstated the requirements of Article 296 TFEU and Article 47 of the Charter of Fundamental Rights, in so far as it declared that the decision at issue lacked an adequate statement of reasons, since Portigon was not able to verify completely the accuracy of the calculation set out therein. In particular, according to the SRB, the General Court failed to reconcile those requirements with the obligation of secrecy, as provided for in Article 339 TFEU – which the General Court failed to mention in the judgment under appeal – and as follows from other principles of EU law.]

- Order of 25 February 2021 granting permission to the French Banking Federation (Fédération bancaire française) to intervene in the proceeding in support of Landesbank Baden-Württemberg [ECLI:EU:C:2021:151](#)
- Order of 12 March 2021 granting permission to Spain to intervene in the proceeding in support of the Commission and the SRB; [ECLI:EU:C:2021:261](#).
- Judgment of 15 July 2021 annulling the *ex-ante* contributions to the SRF for 2017 on the basis of inadequate reasoning; [ECLI:EU:C:2021:601](#). See the Court's [press release No 135/21](#).

**Appeal:** [Case C-584/20 P](#), **European Commission v Landesbank Baden-Württemberg**, *closed*

[the European Commission appeals the judgment on five grounds: (i) the characterisation of the annex to the decision at issue is defective, in so far as the General Court takes the view that that annex is 'in no way inextricably linked' to that decision; (ii) the General Court erred in law and failed to state reasons when it declared the plea of illegality raised at first instance in respect of Delegated Regulation (EU) 2015/63 1 admissible; (iii) the General Court misinterpreted Article 69(1) and Article 70(2) of Regulation No 806/2014 in respect of the target level and the basic annual contribution; (iv) the General Court erred in law in regarding the delegated regulation, in particular, Articles 4 to 7 and Article 9 thereof, as well as Annex I thereto, as 'interdependent', wrongly characterising the adjustment of contributions to the risk profile; (v) the General Court erred in law by interpreting the European Commission's obligation to state reasons in accordance with Article 296 TFEU in an overly extensive manner]

- Order of 12 March 2021 granting permission to the Kingdom of Spain to intervene in the proceeding in support of the European Commission and the SRB [ECLI:EU:C:2021:261](#)
- Opinion of the Advocate General de la Tour of 27 April 2021 in Joined Cases C-584/20 P and C-621/20 P, **European Commission v Landesbank Baden-Württemberg, SRB (C-584/20 P) and SRB v Landesbank Baden-Württemberg (C-621/20 P)**, [ECLI:EU:C:2021:330](#) concluding that the judgment of the General Court in Case T-411/17, should be set aside; the decision of the Executive Session of the Single Resolution Board (SRB) of 11 April 2017 on the calculation of the 2017 *ex-ante* contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05) should be annulled; the effects of decision SRB/ES/SRF/2017/05 continue, in so far as that decision concerns Landesbank Baden-Württemberg, until the entry into force of a

new decision made to replace it or the expiry of six months from the date of delivery of the forthcoming judgment at the latest

- Judgment of 15 July 2021; [ECLI:EU:C:2021:601](#), annulling the SRB decision on *ex-ante* contributions while setting aside the judgment of the General Court for infringing the principle of *audi alteram partem* vis-à-vis the SRB and erring in interpreting the scope of the obligation to state reasons. From the CJEU's [press release 135/21](#) of 15 July: "the obligation to state reasons for the decision at issue must be balanced against the SRB's obligation to respect the business secrets of those institutions". "(...) the Court concludes that, in the present case, the obligation to state reasons is fulfilled where the persons concerned by a decision fixing *ex-ante* contributions to the SRF, while not being sent professionally confidential data, have the method of calculation used by the SRB and sufficient information to understand, in essence, how their individual situation was taken into account, for the purposes of calculating their *ex-ante* contribution to the SRF, relative to the situation of all the other financial institutions concerned. While "a statement of reasons based on the disclosure of relevant information, in collective and anonymised form, does not enable every institution to detect systematically any error made by the SRB in the collection and aggregation of the relevant data", it should "enable that institution (...) to identify, on the basis of its general knowledge of the financial sector, any use of implausible or manifestly incorrect information, and to determine whether it is worthwhile to bring an action for the annulment of a decision of the SRB fixing its *ex-ante* contribution to the SRF". In this case, the information provided to *Landesbank Baden-Württemberg* was insufficient – for this reason, the SRB decision is annulled for lack of adequate reasoning. The SRB noted the judgment on its [website](#), saying it "welcomes the legal clarity and guidance provided by the European Court of Justice in its decision. It will now carefully consider the content of the judgment in order to determine the next steps in cooperation with the European Commission and the relevant National Resolution Authorities (NRAs)."

**12. [Case T-414/17](#), *Vorarlberger Landes- und Hypothekenbank v SRB*, *closed***

[request for annulment of the SRB Decision 11 April 2017 on the 2017 *ex-ante* contributions to the SRF on the basis of the alleged flagrant breach of essential procedural requirements by reason of incomplete notification of the decision inadequate statement of reasons]

- Judgment of 23 September 2020 [ECLI:EU:T:2020:437](#) annulling the SRB Decision

**Appeal: [Case C-663/20 P](#), *SRB v Hypo Vorarlberg Bank*, *closed***

[the SRB claims that the judgment of the General Court should be set aside on the basis of two grounds as in Case C-621/20 P above.]

[[Order](#) of the Court (Sixth Chamber) of 3 March 2022; [ECLI:EU:C:2022:162](#) (available in French and German). The judgment of the General Court of 23 September 2020, *Hypo Vorarlberg Bank v SRB* (Case T-414/17, not published, [EU:T:2020:437](#)), is set aside. The decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 *ex ante* contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05) is annulled, in so far as it concerns *Hypo Vorarlberg Bank AG*. The effects of the decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 *ex ante* contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05), in so far as it concerns *Hypo Vorarlberg Bank AG*, are maintained until the entry into force, within a reasonable period which cannot exceed six months from the date of service of this order, of a new decision of the Single Resolution Board fixing the 2017 *ex ante* contribution to the Single Resolution Fund of that institution. From: [summary](#), available in 24 languages.]

[Order](#) of the General Court from 4 July 2023 in [Case T-414/17 DEP](#), referring the issue relating to the costs of the proceedings to the Court of Justice.



13. [Case T-420/17](#), *Portigon v SRB*, **closed**

[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)]

- Judgment of 23 September 2020 [ECLI:EU:T:2020:438](#) annulling the SRB Decision

**Appeal:** [Case C-664/20 P](#), *SRB v Portigon and Commission*, **closed**

[The SRB claims that the judgment of the General Court should be set aside on the basis of two grounds as in Case C-621/20 P above.]

[Order](#) of the court from 3 March 2022 in Case C-664/20 P, [ECLI:EU:C:2022:161](#), setting aside the judgment of the General Court of 23 September 2020, *Portigon v SRB* (Case T-420/17, not published, [EU:T:2020:438](#)) and annulling the decision of the Executive Session of the Single Resolution Board of 11 April 2017 on the calculation of the 2017 *ex ante* contributions to the Single Resolution Fund (SRB/ES/SRF/2017/05), in so far as it concerns *Portigon AG*.

14. [Case T-494/17](#), *Iccrea Banca v Commission and SRB*, **closed**

[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-386/18](#), *Iccrea Banca v Commission and SRB*, **closed**

[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 2015/63](#) in 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]

[Order](#) of the General Court of 21 October 2022, ECLI:EU:T:2022:679, available in French and Italian. Joined Cases T-386/18 and T-400/19 are removed from the register of the General Court, following the withdrawal of the request by the applicant.

16. [Case T-400/18](#), **Landesbank Baden-Württemberg v SRB**, *pending*

[request for annulment of the SRB decision of 12 April 2018 on the *ex-ante* contributions to the SRF for 2018. 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](#), under no. 11 above]

17. [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]

18. [Case T-413/18](#), **Portigon 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 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, under no. 13 above]

19. [Case T-414/18](#), **Hypo Vorarlberg Bank 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 four pleas in law: (i) infringement of essential procedural requirements due to incomplete notification of the contested decision; (ii) infringement of essential procedural requirements due to a failure to state sufficient reasons in the contested decision; (iii) infringement of essential procedural requirements due to the absence of a hearing and the failure to observe the right to a fair hearing; (iv) unlawfulness of [Delegated Regulation 2015/63](#)]

20. [Case T-496/18](#), **OCU v SRB**, *closed*

[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](#)

- Judgment of 20 December 2023; [ECLI:EU:T:2023:857](#), dismissing the action, available in French and Spanish

**21. [Case T-758/18](#), *ABLV Bank v SRB*, *closed***

[request for annulment of the SRB decision of 17 October 2018 with respect to *ABLV Bank* as regards the SRB's refusal to recalculate and to repay that bank's *ex-ante* contributions to the Single Resolution Fund. The applicant relies on ten pleas in law, including, alleged failure to give sufficient weight to the pro rata temporis nature of Fund contributions, alleged failure to take into account the SRB's own express recognition that Fund contributions are refundable on a pro rata temporis basis, alleged failure to take into account the express recognition in Article 12(1) of [Commission Delegated Regulation 2015/63](#) that only partial payments are owed if the conditions are met only during part of the relevant year]

- Judgment of 20 January 2021 dismissing the action [ECLI:EU:T:2021:28](#)

**Appeal:** [Case C-202/21 P](#), *ABLV Bank v SRB*, *closed*

[[thirteen pleas](#) against the judgment of the General Court]

- Opinion of AG Kokott of 28 April 2022 [ECLI:EU:C:2022:327](#)
- Judgment of 29 September 2022 [ECLI:EU:C:2022:734](#), dismissing the appeal

**22. [Case T-400/19](#), *ICCREA Banca v SRB*, *pending***

[request for annulment of the SRB decision of 16 April 2019 determining the *ex-ante* contributions to the SRF, and, as appropriate, the annexes to that decision, as well as any other decisions of the SRB even those of which the applicant is unaware, on the basis of which the Banca d'Italia adopted decisions Nos 0543938/19 of 24 April 2019 and 0733800/19 of 7 June 2019 and to compensate the damage caused in terms of higher rates paid for the contributions owed by the applicant to the SRB. In the alternative the applicant claims that the Court should declare invalid Article 5(1)(a) and (f) of the [Commission Delegated Regulation 2015/63](#). The applicant relies on four pleas in law: (i) failure to carry out a proper inquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the [Commission Delegated Regulation 2015/63](#), and (iv) infringement of the principles of non-discrimination and sound administration; (ii) failure to carry out a proper inquiry, (ii) error of assessment of the facts, infringement and misapplication of Article 5[(1)](f) of [Commission Delegated Regulation 2015/63](#), and infringement of the principles of non-discrimination and sound administration; (iii) unlawful conduct of an EU body giving rise to non-contractual liability; (iv) (in the alternative, alleging that) [Commission Delegated Regulation 2015/63](#) infringes the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable.].

**23. [Case T-466/19](#), *Société générale and Others v SRB*, *pending***

[request for annulment of the SRB Decision on the *ex-ante* contributions to the SRF for 2019 (SRB/ES/SRF/2019/10) and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the [SRM Regulation](#), Article 4(2), Article 6, Article 7 and Article 10 of the [Commission Delegated Regulation 2015/63](#) and Annex I thereto and Article 4 and Article 8(5) of the [Council Implementing Regulation \(EU\) 2015/81](#) are inapplicable. The applicant relies on four pleas in law: (i) manifest infringement of the principle of equal treatment stemming from the different treatment of large institutions, which include the applicants, as compared with small and medium institutions; (ii) manifest infringement of the principle of proportionality; (iii) infringement of the principle of legal certainty in so far as calculation methods for the contributions are unpredictable and contribution depend on the situation of an institution compared with that of other institutions rather than on its situation and its overall risk profile as such; (iv) infringement of the principle of good administration in so far as the contested decision does not rely on, for

the calculation of the risk-adjusted variable, all the risk criteria set out in the Delegated Regulation]	
24.	<p><a href="#">Case T-467/19</a>, <b>BNP Paribas and Others v SRB</b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision on the <i>ex-ante</i> contributions to the SRF for 2019 (SRB/ES/SRF/2019/10) and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the <a href="#">SRM Regulation</a>, Article 4(2), Article 6, Article 7 and Article 10 of the Delegated Regulation and Annex I thereto and Article 4 and Article 8(5) of the Implementing Regulation are inapplicable. The applicant relies on four pleas in law which are, in essence, identical or similar to those relied on in <a href="#">Case T-466/19</a>, <i>Société générale and Others v SRB</i>]</p>
25.	<p><a href="#">Case T-468/19</a>, <b>Confédération nationale du Crédit mutuel and Others v SRB</b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision on the <i>ex-ante</i> contributions to the SRF for 2019 (SRB/ES/SRF/2019/10) and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the <a href="#">SRM Regulation</a>, Article 4(2), Article 6, Article 7 and Article 10 of the Delegated Regulation and Annex I thereto, Article 4 and Article 8(5) of the Implementing Regulation are inapplicable. The applicant relies on four pleas in law which are, in essence, identical or similar to those relied on in <a href="#">Case T-466/19</a>, <i>Société générale and Others v SRB</i>]</p>
26.	<p><a href="#">Case T-478/19</a>, <b>NRW. Bank v SRB</b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision of 16 April 2019 on the <i>ex-ante</i> contributions to the SRF for 2019, including the annex thereto and the calculation details. The applicant relies on five pleas in law: (i) lack of adequate statement of reasons; (ii) infringement of <a href="#">Commission Delegated Regulation 2015/63</a> in so far as the contribution to the SRF should be calculated in light of the risk profile and the objective of protecting public budgets, something which was not done properly by the defendant; (iii) (in the alternative, alleging that) Article 5(1)(f) of the <a href="#">Commission Delegated Regulation 2015/63</a> infringes the <a href="#">SRM Regulation</a>, the <a href="#">BRRD</a> and the general principle of equality; (iv) (in the alternative, alleging that) the calculation methodology in <a href="#">Commission Delegated Regulation 2015/63</a> does not meet the requirements of the general principle of equality or the mandatorily required orientation towards the risk profile under <a href="#">SRM Regulation</a> and the <a href="#">BRRD</a>; (v) infringement of Article 8(2) of the <a href="#">Council Implementing Regulation (EU) 2015/81</a> in so far as the defendant should have deducted the entire outstanding amount of the contribution paid by the applicant in 2015 and already transferred into the SRF in view of the fact that the applicant now falls outside the scope of application of <a href="#">SRM Regulation</a>]</p>
27.	<p><a href="#">Case T-479/19</a>, <b>Hypo Vorarlberg Bank v SRB</b>, <i>pending</i></p> <p>[request for annulment of decision of the SRB Decision of 16 April 2019 on the <i>ex-ante</i> contributions to the SRF for 2019. The applicant relies on four pleas in law: (i) infringement of essential procedural requirements owing to incomplete notification of the contested decision; (ii) infringement of essential procedural requirements owing to a failure to state sufficient reasons for the contested decision since neither the bases nor the details of the calculations were disclosed; (iii) infringement of essential procedural requirements owing to the absence of a hearing and the failure to respect the right to be heard; (iv) Articles 4 to 7 and 9 of, as well as Annex I to the <a href="#">Commission Delegated Regulation 2015/63</a> are unlawful in that they are contrary to Articles 16, 17, 20, 21 and 47 of the <a href="#">Charter</a> and the principles of proportionality and legal certainty are not ensured. The present plea is also raised, in the alternative, in relation to those provisions of <a href="#">BRRD</a> and of <a href="#">SRM Regulation</a> which mandatorily require the system of contributions which, in the applicant's view, is incompatible with the cited fundamental rights and fundamental values of EU law]</p>
28.	<p><a href="#">Case T-480/19</a>, <b>Landesbank Baden-Württemberg v SRB</b>, <i>pending</i></p> <p>[request for annulment annul the SRB Decision of 16 April 2019 on the <i>ex-ante</i> contributions to the SRF for 2019. The applicant relies on six pleas in law: (i) infringement of the second paragraph of Article 296 TFEU and of Article 41(1) and (2)(c) of the Charter for the breach of</p>



the duty to state adequate reasons; (ii) infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter due to the fact that the applicant was not heard before adoption the act that produced adverse effects to the applicant; (iii) infringement of the fundamental right to effective legal protection under the first paragraph of Article 47 of the [Charter](#) since it is practically impossible to subject the contested decision to judicial review; (iv) infringement of Article 103(7)(h) of [BRRD](#), of Article 113(7) of the [CRR](#), of the first sentence of Article 6(5) of the [Commission Delegated Regulation 2015/63](#), of Articles 16 and 20 of the [Charter](#) and of the principle of proportionality due to the fact that the Institutional Protection Scheme (IPS) was not fully applied to the applicant; (v) infringement of Article 16 of the [Charter](#) and of the principle of proportionality in so far as it calculated risk adjustment multipliers that are incompatible with the applicant's risk profile, which, relative to the other contributor-institutions, is better than average; (vi) illegality of Articles 4 to 7 and Article 9 of [Commission Delegated Regulation 2015/63](#) and of Annex I to that delegated regulation]

**29. [Case T-481/19](#), *Portigon v SRB*, *pending***

[request for annulment of the SRB Decision of 16 April 2019 on the *ex-ante* contributions to the SRF for 2019 and to stay the present proceedings until a final decision is issued in Cases T-365/16, T-420/17 and T-413/18 or until those cases are otherwise brought to a conclusion. The applicant relies on eight pleas in law, including

In support of the action, the applicant relies on eight pleas in law: (i) the [SRM Regulation](#) and the [Commission Delegated Regulation 2015/63](#) infringe Article 114 TFEU owing to the lack of relevance to the internal market; (ii) infringement of Article 41(2)(c) of the [Charter](#) due to lack of complete statement of reasons; (iii) infringement of Articles 16 and 20 of the [Charter](#) since, in view of the special situation of the applicant, the contested decision is at variance with the general principle of equality. Furthermore, the contested decision interferes disproportionately with the applicant's freedom to conduct a business; (iv)(in the alternative) infringement of Article 70(2) of the [SRM Regulation](#) since the defendant, in calculating the amount of the contribution, should have excluded risk-free liabilities from the relevant liabilities; (v) (in the alternative) infringement of Article 70(6) of the [SRM Regulation](#) since the defendant wrongly calculated the applicant's contribution on the basis of a gross approach with regard to derivative contracts; (vi) (in the alternative) infringement of Article 70(6) of the [SRM Regulation](#), since the defendant wrongly regarded the applicant as an institution undergoing reorganisation; (vii) infringement of Article 41(1) and (2)(a) of the [Charter](#), as the defendant should have heard the applicant prior to the adoption of the contested decision; (viii) infringement of Article 41(1) and (2)(c) of the [Charter](#) and of the second paragraph of Article 296 TFEU on the ground that the defendant failed to provide an adequate statement of reasons for the contested decision]

**30. [Case T-488/19](#), *Crédit agricole and Others v SRB*, *pending***

[request for annulment of SRB Decision on the *ex-ante* contributions to the SRF for 2019 (SRB/ES/SRF/2019/10) and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the [SRM Regulation](#), Article 4(2), Article 6, Article 7 and Article 10 of the [Commission Delegated Regulation 2015/63](#) and Annex I thereto and Article 4 and Article 8(5) of the [Council Implementing Regulation \(EU\) 2015/81](#) are inapplicable. The applicants rely on four pleas in law which are, in essence, identical or similar to those relied on in [Case T-466/19](#), *Société générale and Others v SRB*]

**31. [Case T-489/19](#), *BPCE and Others v SRB*, *pending***

[request for annulment of the SRB Decision on the *ex-ante* contributions to the SRF for 2019 (SRB/ES/SRF/2019/10) and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the [SRM Regulation](#), Article 4(2), Article 6, Article 7 and Article 10 of the [Commission Delegated Regulation 2015/63](#) and Annex I thereto and Article 4 and Article 8(5) of the [Council Implementing Regulation \(EU\) 2015/81](#) are inapplicable. The applicants rely on four pleas in law which are, in essence, identical or similar to those relied on in [Case T-466/19](#), *Société générale and Others v SRB*]

**32. [Case T-498/19](#), *Banco Cooperativo Español v SRB*, *pending***



[request for annulment of the SRB Decision of 16 April 2019 on the calculation of *ex-ante* contributions to the SRF for 2019 and in the alternative to declare that Articles 12 and 14 of the [Commission Delegated Regulation 2015/63](#) are inapplicable. The applicant relies on two pleas in law: (i) infringement of Article 12(2) of the [Commission Delegated Regulation 2015/63](#); and (ii) (in the alternative) Articles 12 and 14 of the [Commission Delegated Regulation 2015/63](#) are inapplicable]

**33. [Case T-257/20](#), *González Calvet v SRB*, *closed***

[request to annul the SRB Decision of 17 March 2020 (SRB/EES/2020/52) to evaluate all the assets of the entire *Banco Popular* Group and not just those of the parent company separately from its subsidiaries, as Deloitte has done, given that the entire group has been taken over by Banco Santander and not just the parent company, to evaluate the performing loans at 100% of their book value, to evaluate the non-performing loans at 100% of their book value, given that, between guarantees and provisions, their cover was close to 100%, to evaluate the real estate assets of the *Banco Popular* Group at EUR 10 896 000 000, given that the corresponding provisions were discounted, to evaluate the total assets of the *Banco Popular* Group at EUR 153 785 000 000 in accordance with the arguments set out in the application which provides a realisation value for shareholders in the event of liquidation of EUR 29 365 000 000, after discounting the EUR 124 420 000 000 owed, according to Deloitte, to creditors, to set compensation of EUR 7.00 per share, being the sum obtained by dividing EUR 29 365 000 000 by 4 196 000 000 shares which were in circulation at the time of the resolution, to indemnify Mr Ramon González Calvet with EUR 317 072 (three hundred and seventeen thousand and seventy-two euros) for the expropriation of his 45 296 shares and Mr Juan González Calvet with EUR 11 977 (eleven thousand nine hundred and seventy-seven euros) for the expropriation of his 1 711 shares, together with legal costs. In support of the action, the applicant claims that Deloitte's valuation is biased towards the interests of the SRB and is prejudicial to the shareholders, inter alia because it undervalues the deferred tax assets which were fully covered by *Banco Santander*, it does not take into account the fact that the cover for non-performing loans, between guarantees and provisions, was 100%, it undervalues the performing loans portfolio, it does not count all the assets of the Banco Popular Group and separates the assets of the legal entity *Banco Popular* from those of its subsidiaries and investees and it does not take into account the fact that the net book value of the real estate assets, after the provisions were discounted, was 10 896 000 000]

Order of 17 November 2020 dismissing the claim as manifestly inadmissible  
[ECLI:EU:T:2020:541](#)

**Appeal:** [Case C-27/21 P](#), *González Calvet v SRB*, *closed*

- Order of 30 September 2021 dismissing the appeal as partly manifestly inadmissible and partly manifestly unfounded

**34. [Case T-394/20](#), *Hypo Vorarlberg Bank v SRB*, *pending***

[request to annul the SRB Decision of 15 April 2020 on the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on four pleas in law, which are essentially identical or similar to the pleas in law put forward in Case T-479/19, *Hypo Vorarlberg Bank v SRB*]

**35. [Case T-405/20](#), *DZ Hyp v SRB*, *pending***

[request to annul the SRB Decision of 15 April 2020 on the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on eleven pleas in law,

	including an infringement of the obligation to state reasons, an infringement of the right to a fair hearing, an infringement of Article 81(1) of <a href="#">Regulation (EU) No 806/2014</a> ( 1 ) in conjunction with Article 3 of Council Regulation No 1 ( 2 ), an infringement of the principle of effective judicial protection under Article 47(1) of the Charter, inasmuch as it is practically impossible to review the decision by the courts, an infringement of the second sentence of Article 7(4), Article 6, 7 and 9 of Delegate Regulation (EU) 2015/63 of the Commission ( 3 ) against higher-ranking law]
36.	<a href="#">Case T-406/20</a> , <b>Landesbank Baden-Württemberg v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020 on the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on eleven pleas in law which are essentially identical or similar to those put forward in Case T-405/20, DZ Hyp v SRB]
37.	<a href="#">Case T-407/20</a> , <b>DVB Bank v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020 on the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on ten pleas in law which are essentially identical or similar to those put forward in Case T-405/20, DZ Hyp v SRB]
38.	<a href="#">Case T-410/20</a> , <b>DZ Bank v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020 on the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on eleven pleas in law which are essentially identical or similar to those put forward in Case T-405/20, DZ Hyp v SRB]
39.	<a href="#">Case T-411/20</a> , <b>Bayerische Landesbank v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020 on the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on eleven pleas in law which are essentially identical or similar to those put forward in Case T-405/20, DZ Hyp v SRB]
40.	<a href="#">Case T-412/20</a> , <b>Landesbank Hessen-Thüringen Girozentrale v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020 on the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on eleven pleas in law which are essentially identical or similar to those put forward in Case T-405/20, DZ Hyp v SRB]
41.	<a href="#">Case T-413/20</a> , <b>Norddeutsche Landesbank — Girozentrale v SRB</b> , <i>pending</i>  [request to annul the SRB Decision of 15 April 2020, including the annex thereto, concerning the calculation of the <i>ex-ante</i> contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on seven pleas in law alleging: (i) an infringement of the right to be heard; (ii) an infringement of Article 41 of the Charter, Article 298 TFEU, general principles of law and the SRB's Rules of Procedure; (iii) a failure to state reasons; (iv) an infringement of the fundamental right to effective judicial protection for lack of verifiability of the contested order; (v) the application of the IPS (Institutional Protection Scheme) indicator of Commission Delegate Regulation (EU) 2015/63 infringes higher-ranking law; (vi) the application of the risk adjustment multiplier of Delegated Regulation (EU) 2015/63 infringes higher-ranking law; (vii) the second sentence of Article 7(4) of Delegated Regulation (EU) 2015/63 infringes higher-ranking law]
42.	<a href="#">Case T-336/20</a> , <b>Hypo Vorarlberg Bank v SRB</b> , <i>pending</i>

[request to annul the SRB Decision of 19 March 2020 on the 2016 *ex-ante* contributions due by Banco Cooperativo Español, SA, Hypo Vorarlberg Bank AG (formerly: Vorarl-berger Landes- und Hypothekenbank AG), and Portigon AG to the SRF (SRB/ES/2020/16). In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those relied on in Case T-479/19; *Hypo Vorarlberg Bank v SRB*]

43. [Case T-339/20](#), ***Portigon v SRB***, *pending*

[request to annul the SRB Decision of 19 March 2020 on the *ex-ante* contributions to the SRF for 2016 (SRB/ES/2020/16) and to stay the present proceedings under Article 69(c) and (d) of the Rules of Procedure of the General Court until a final decision is issued in Cases T-420/17, T-413/18 and T-481/19 or until those cases are otherwise brought to a conclusion. In support of the action, the applicant relies on eight pleas in law, including, the alleged infringement of Regulation (EU) No 806/2014 and Council Implementing Regulation (EU) 2015/81 and TFEU, the alleged infringement of Article 41(2)(c) of the Charter of Fundamental Rights]

44. [Case T-394/20](#), ***Hypo Vorarlberg Bank v SRB***, *pending*

[request to annul the SRB Decision of 15 April 2020 on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on four pleas in law, which are essentially identical or similar to the pleas in law put forward in Case T-479/19, *Hypo Vorarlberg Bank v SRB*]

45. [Case T-413/20](#), ***Norddeutsche Landesbank – Girozentrale v SRB***, *pending*

[request to annul the SRB Decision of 15 April 2020, including the annex thereto, concerning the calculation of the contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on seven pleas in law, including the infringement of the right to be heard, the infringement of general procedural requirements deriving from Article 41 of the Charter, Article 298 TFEU, general principles of law and the defendant's Rules of Procedure, a failure to state reasons for the contested decision, the infringement of the fundamental right to effective judicial protection (Article 47(1) of the Charter) for lack of verifiability of the contested order]

46. [Case T-419/20](#), ***Deutsche Kreditbank v SRB***, *pending*

[request to annul the SRB Decision of 15 April 2020 on the calculation of contributions to the SRF for 2020 (SRB/ES/2020/24). The action is based on nine pleas which are essentially identical or similar to the first, second, third, fourth, seventh, eighth, ninth, tenth and eleventh pleas in law put forward in Case T-405/20 *DZ Hyp v SRB*]

47. [Case T-424/20](#), ***Portigon v SRB***, *pending*

[request to annul the SRB Decision of 15 April 2020 on the calculation of *ex-ante* contributions to the SRF for 2020 (SRB/ESF/2020/24) and stay the proceedings under Article 69(c) and (d) of the Rules of Procedure of the General Court until a final decision is issued in Cases T-420/17, T-413/18, T-481/19 and T-339/20 or until those cases are otherwise brought to a conclusion. In support of the action, the applicant relies on seven pleas in law, which are essentially identical or similar to the first, second, third, fifth, sixth, seventh and eighth plea in law put forward in Case T-339/20, *Portigon v SRB*]

48. [Case T-427/20](#), **Max Heinr. Sutor v SRB**, *pending*

[request to annul the SRB Decision of 15 April 2020 on the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24 — 1405146-2020-JB). In support of the action, the applicant relies on ten pleas in law, including an infringement of Article 5(1)(e) of Commission Delegated Regulation (EU) 2015/63, the second subparagraph of Article 70(2)(b) of Regulation (EU) No 806/2014 of the European Parliament and of the Council, an infringement of the principle of equal treatment, an infringement of Article 16 of the Charter, an infringement of Article 49 in conjunction with Article 54 TFEU, an infringement of Article 41(1) and (2)(a) of the Charter]

49. [Case T-428/20](#), **Deutsche Hypothekenbank v SRB**, *pending*

[request to annul the SRB Decision of 15 April 2020 on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on ten pleas in law including an infringement of the right to be heard, an infringement of procedural rules, a failure to state reasons for the contested decision, an infringement of the fundamental right to effective judicial protection (Article 47(1) of the Charter) for lack of verifiability of the contested decision]

50. [Case T-431/20](#), **UniCredit Bank v SRB**, *pending*

[request to annul the decision of the Single Resolution Board of 15 April 2020 on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on three pleas in law including an infringement of the right of sound administration for failure to state reasons, an infringement of the right to be heard, an infringement of the fundamental right to effective judicial protection (Article 47(1) of the Charter) for lack of verifiability of the contested decision]

51. [Case T-444/20](#), **Société générale and Others v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicants rely on four pleas in law including an infringement of the principle of equal treatment, an infringement of the principle of proportionality, an infringement of the principle of legal certainty, an infringement of the principle of good administration in that the SRB does not apply, for the calculation of the risk-adjusted variable, all the risk criteria laid down in the [Commission Delegated Regulation \(EU\) 2015/63](#)]

52. [Case T-445/20](#), **Crédit agricole and Others v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicants rely on four pleas in law which are, in essence, identical or similar to those raised in Case T-444/20, Société générale and Others v SRB]

53. [Case T-446/20](#), **Confédération nationale du Crédit mutuel and Others v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicants rely on four pleas in law which are, in essence, identical or similar to those raised in Case T-444/20, Société générale and Others v SRB]

54. [Case T-447/20](#), **BNP Paribas v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicants rely on four pleas in law which are, in essence, identical or similar to those raised in Case T-444/20, *Société générale and Others v SRB*]

55. [Case T-448/20](#), **BPCE e.a. v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicants rely on four pleas in law which are, in essence, identical or similar to those raised in Case T-444/20, *Société générale and Others v SRB*]

56. [Case T-449/20](#), **Banque postale v SRB**, *pending*

[request to annul the decision of the Single Resolution Board on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/24). In support of the action, the applicant relies on four pleas in law which are, in essence, identical or similar to those raised in Case T-444/20, *Société générale and Others v SRB*]

57. [Case T-499/20](#), **Banco Cooperativo Español v SRB**, *pending*

[request to annul the decision of the Single Resolution Board of 19 March 2020 on the calculation of the *ex-ante* contributions to the SRF for 2020 (SRB/ES/2020/16). In support of the action, the applicant relies on four pleas in law including a plea of illegality and inapplicability of the [Commission Delegated Regulation \(EU\) 2015/63](#), an infringement of the freedom to conduct a business and the principle of proportionality, a misapplication of the case-law of the Court of Justice which allows a decision to be given retroactive effect, a compensation by the SRB on the grounds of unjust enrichment]

58. [Case T-347/21](#), **Hypo Vorarlberg Bank v SRB**, *pending*

[request to annul the decision of the Single Resolution Board of 14 April 2021 on the calculation of the *ex-ante* contributions to the SRF for 2021 (SRB/ES/2021/22) and stay the proceedings pending final resolution of (joined) Cases C-584/20 P 1 and C-621/20 P, 2 C-663/20 P 3 and C-664/20 P, 4 since the legal issues are largely the same in those proceedings, which have already been pending for some time. In support of the action, the applicant relies on five pleas in law: (i) infringement of essential procedural requirements due to a lack of full disclosure of the contested decision; (ii) infringement of essential procedural requirements on account of an inadequate statement of reasons for the contested decision; (iii) infringement of essential procedural requirements due to the absence of a hearing and the failure to observe the right be heard; (iv) unlawfulness of Delegated Regulation (EU) 2015/63 5 as a legal basis for the contested decision and unlawfulness of the risk adjustment methodology set out in Delegated Regulation (EU) 2015/63; (v) unlawfulness of Directive 2014/59/EU 6 and Regulation (EU) No 806/2014 7 as a legal basis for Delegated Regulation (EU) 2015/63 and therefore for the contested decision.]

- Judgment scheduled for 24 January 2024



59. [Case T-348/21](#), **Volkskreditbank v SRB**, *pending*

[request to annul the decision of the Single Resolution Board of 14 April 2021 on the calculation of the ex-ante contributions to the single resolution fund for 2021 (SRB/ESF/2021/22) and stay the present proceedings until final settlement of (joined) cases C-584/20 P <sup>1</sup> and C-621/20 P, C-663/20 P and C-664/20 P, as the legal questions are largely the same in those pending appeals. In support of the action, the applicant relies on five pleas in law, which are identical to the pleas in law put forward in Case T-347/21, *Hypo Vorarlberg Bank v SRB*.]

- Judgment scheduled for 24 January 2024

60. [Case T-360/21](#), **Portigon v SRB**, *pending*

[request annul the decision of the SRB of 14 April 2021 on the calculation of the *ex-ante* contributions to the single resolution fund for 2021 (SRB/ES/2021/22) and stay the present proceedings until a final decision is issued in cases T-413/18, 1 T-481/19, 2 T-339/20 3 and T-424/20 4 und C-664/20 P 5 or until those cases are otherwise brought to a conclusion. In support of the action the applicant relies on eight following pleas in law, including the infringement of [SRM Regulation](#) and of [Council Implementing Regulation \(EU\) 2015/81](#) and TFEU through increases in the amounts of the contributions to be paid by the applicant to the Fund, Articles 41(2)(c), 16 and 20 of the [Charter](#), and the essential formal requirements and possibly of Article 5(1) of [Council Implementing Regulation \(EU\) 2015/81](#), as it is unclear whether the SRB Decision was authenticated.]

61. [Case T-383/21](#), **Banque postale v SRB**, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and the Delegated Regulation inapplicable, namely:

- Articles 69(1), 69(2), 70(1) and 70(2)(a) and (b) of the [SRM Regulation](#);
- Article 4(2) and Articles 6 and 7 of [Commission Delegated Regulation \(EU\) 2015/63](#) and Annex I thereto;
- Article 4 of [Council Implementing Regulation \(EU\) 2015/81](#).

Eight pleas are invoked, invoking the alleged infringement of the principles of equal treatment, proportionality, legal certainty, good administration and effective judicial protection, the obligation to state reasons, and alleging a manifest error of assessment and an error in law.]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:845](#), annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns La Banque Postale, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

62. [Case T-384/21](#), **Confédération nationale du Crédit Mutuel and Others v SRB**, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and the Delegated Regulation inapplicable, relying on eight pleas in law, identical or similar to those put forward in [Case T-383/21](#), *Banque postale v SRB* (no. 61 above).]

Judgment of 20 December 2023; [ECLI:EU:T:2023:823](#), in [Case T-384/21](#), **Confédération nationale du Crédit mutuel v SRB**, annulling Decision SRB/ES/2021/22 of April 14 2021 on

the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Confédération nationale du Crédit mutuel*, and the other applicants listed in the (unpublished) annex, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

63. [Case T-385/21](#), *BPCE and Others v SRB*, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and the Delegated Regulation inapplicable, relying on eight pleas in law, identical or similar to those put forward in [Case T-383/21](#), *Banque postale v SRB* (no. 61 above).]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:824](#), annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns BPCE and the other applicants listed in the (unpublished) annex, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

64. [Case T-387/21](#), *Société générale and Others v SRB*, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and the Delegated Regulation inapplicable, relying on eight pleas in law, identical or similar to those put forward in [Case T-383/21](#), *Banque postale v SRB* (no. 61 above).]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:825](#), annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Société générale*, *Crédit du Nord* and *SG Option Europe*, while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

65. [Case T-388/21](#), *Crédit agricole and Others v SRB*, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and the Delegated Regulation inapplicable, relying on eight pleas in law, identical or similar to those put forward in [Case T-383/21](#), *Banque postale v SRB* (no. 61 above).]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:826](#), annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *Crédit agricole* and the other applicants listed in the (unpublished) annex while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

66. [Case T-397/21](#), *BNP Paribas v SRB*, *closed*

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF and to declare certain provisions of the [SRM Regulation](#), the Implementing Regulation and

the Delegated Regulation inapplicable, relying on eight pleas in law, identical or similar to those put forward in [Case T-383/21](#), *Banque postale v SRB* (no. 61 above).]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:829](#), annulling Decision SRB/ES/2021/22 of April 14 2021 on the calculation of *ex ante* contributions for 2021 to the SRF as far as it concerns *BNP Paribas* while maintaining the effects of the contested decision until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in French

**67. [Case T-405/21](#), *Dexia Crédit Local v SRB*, *pending***

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF, based on six pleas in law: (1) infringement of Article 69 of the [SRM Regulation](#); (2) alleging that [Commission Delegated Regulation \(EU\) 2015/63](#) is unlawful as infringing the principles of proportionality and equal treatment, which the SRB is alleged to have infringed, as well (in the alternative (3)); (4) alleged lack of transparency and failure to state reasons in so far as the information provided does not make it possible to exercise properly the rights of defence; (5) alleging lack of legal basis for Articles 5, 69 and 70 of the [SRM Regulation](#) in so far as they were

adopted on the basis of Article 114 TFEU even though they do not concern approximation of laws; and a similar plea (6) in respect of Articles 5, 69 and 70 of the [SRM Regulation](#), as adopted on the basis of Article 114 TFEU despite the fact that they are fiscal provisions.]

**68. [Case T-389/21](#), *Landesbank Baden-Württemberg v SRB*, *closed***

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF, based on ten pleas in law, including that the SRB decision "is not worded in the official language of German, which is to be used with the applicant"]

- Judgment of 20 December 2023; [ECLI:EU:T:2023:827](#), annulling the decision as "tainted by defective reasoning with regard to the determination of the annual target level [of the SRF]", while maintaining the effects of the contested decision in respect of the applicant, until the entry into force, within six months, of a new SRB decision establishing the *ex ante* contribution for 2021, available in nine languages, including French and German but not yet in English, Court summary in French [here](#).

**69. [Case T-390/21](#), *DZ Bank v SRB*, *pending***

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF, based on ten pleas in law, identical or similar to those relied on in [Case T-389/21](#), *Landesbank Baden-Württemberg v SRB* (no. 68 above)]

**70. [Case T-391/21](#), *Deutsche Kreditbank v SRB*, *pending***

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF, based on eight pleas in law, including that the decision is not worded in the official language of German, which is to be used with the applicant.]

**71. [Case T-392/21](#), *Landesbank Hessen-Thüringen Girozentrale v SRB*, *pending***

[request to annul the SRB's decision on the calculation of the 2021 *ex-ante* contributions to the SRF, based on ten pleas in law, identical or similar to those relied on in [Case T-389/21](#), *Landesbank Baden-Württemberg v SRB* (no. 68 above)]

72.	<a href="#">Case T-393/21</a> , <b>Max Heinr. Sutor v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision on the calculation of the 2021 <i>ex-ante</i> contributions to the SRF, based on fourteen pleas in law]
73.	<a href="#">Case T-394/21</a> , <b>Bayerische Landesbank v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision on the calculation of the 2021 <i>ex-ante</i> contributions to the SRF, based on ten pleas in law, identical or similar to those relied on in <a href="#">Case T-389/21</a> , <i>Landesbank Baden-Württemberg v SRB</i> (no. 68 above)]
74.	<a href="#">Case T-395/21</a> , <b>DZ Hyp v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision on the calculation of the 2021 <i>ex-ante</i> contributions to the SRF, based on ten pleas in law, identical or similar to those relied on in <a href="#">Case T-389/21</a> , <i>Landesbank Baden-Württemberg v SRB</i> (no. 68 above)]
75.	<a href="#">Case T-396/21</a> , <b>Deutsche Bank v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision on the calculation of the 2021 <i>ex-ante</i> contributions to the SRF, based on eight pleas in law]
76.	<a href="#">Case T-402/21</a> , <b>UniCredit Bank v SRB</b> , <i>pending</i>
	[ <a href="#">request</a> to annul the SRB's decision of 14 April 2021 (SRB/ES/2021/22) on the calculation of the 2021 <i>ex-ante</i> contributions, based on seven pleas in law, inter alia, that the decision infringes (i) the essential procedural requirement pursuant to Article 263 TFEU, (ii) the right to good administration, (iii) the right to an effective remedy under the Charter and (iv) the right to effective judicial protection]
77.	<a href="#">Case T-404/21</a> , <b>DVB Bank v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision on the calculation of the 2021 <i>ex-ante</i> contributions to the SRF, based on ten pleas in law, identical or similar to those relied on in <a href="#">Case T-389/21</a> , <i>Landesbank Baden-Württemberg v SRB</i> (no. 68 above)]
78.	<a href="#">Case T-688/21</a> , <b>BNP Paribas Public Sector v SRB</b> , <i>pending</i>
	[request to annul the SRB's decision of 13 August 2021 in so far as it refused to return the sums corresponding to the cash collateral relating to the irrevocable payment commitments (IPC) for the years 2015 to 2021 and other claims relating to IPCs. The Applicant relies on three pleas in law: (i) Infringement of Article 7(3) of <a href="#">Council Implementing Regulation (EU) 2015/81</a> and the <a href="#">SRM Regulation</a> , on the ground that the SRB's decision infringes Article 7(3) of <a href="#">Council Implementing Regulation (EU) 2015/81</a> ; (ii) the SRB erred in law by purporting to apply Article 70(4) of the <a href="#">SRM Regulation</a> to IPCs, even though that article relates solely to <i>ex-ante</i> cash contributions, and that the SRB confuses cash contributions with cash collateral relating to IPCs; (iii) Infringement of the contractual provisions binding the applicant to the SRB, which renders the latter contractually liable].
79.	<a href="#">Case T-142/22</a> , <b>Landesbank Baden-Württemberg v SRB</b> , <i>pending</i>

[[request](#) for annulment of the decision of the SRB of 15 December 2021 (SRB/ES/2021/82) on the calculation of the 2017 *ex-ante* contributions; alternatively, if the Court takes the view that the contested decision is legally non-existent (as a result of the use of the incorrect official language), the contested decision should be declared legally non-existent.

The applicant relies on 9 pleas in law, including that the SRB decision infringes Article 81(1) of the [SRM Regulation](#) *juncto* Article 3 of [Council Regulation No 1 of 15 April 1958](#), and the general principle of equality, because it is not worded in German (no. 1); infringement of Article 113(7) of the [CRR](#) and the requirement of risk-appropriate assessment of contributions as the decision is incompatible with the scheme and arbitrary (no. 5). Other pleas, claim an infringement of the obligation to state reasons under the [Charter](#) (no. 2), of the requirement of effective legal protection under the [Charter](#) (no. 3), of the applicant's freedom to conduct a business under Article 16 of the Charter and the principle of proportionality (no. 7) and of Articles 16 and 20 of the [Charter](#) as well as the principle of proportionality and the right to good administration (no. 8). In addition, a breach of higher-ranking law by the the [Delegated Regulation 2015/63](#) is alleged (cf. pleas no. 4, 6 and no. 9).]

80. [Case T-391/22](#), ***Société générale and Others v SRB***, *pending*

[request to annul the SRB's decision on the calculation of the 2022 *ex-ante* contributions to the SRF and declare Articles 69(1), 69(2), 70(1) and 70(2)(a) and (b) of the [SRM Regulation](#), Articles 4(2), 5, 6, 7 and 20 of the [Delegated Regulation 2015/63](#), and Annex I thereto as well as Article 4 of the [Council Implementing Regulation \(EU\) 2015/81](#) inapplicable, in accordance with Article 277 of the TFEU. The Applicant relies on eight pleas in law, including an infringement of the principle of equal treatment, of the principle of proportionality, of the principle of legal certainty as well as of the principle of good administration. Furthermore, errors of law, an infringement of the obligation to state reasons and a manifest error of assessment are alleged)].

- Hearing scheduled 8 February 2024

81. [Case T-392/22](#), ***Confédération nationale du Crédit mutuel and Others v SRB***, *pending*

[request to annul the SRB's decision on the calculation of the 2022 *ex-ante* contributions to the SRF and declare the [SRM Regulation](#), the [Delegated Regulation 2015/63](#) as well as the [Council Implementing Regulation \(EU\) 2015/81](#) partly inapplicable, based on eight pleas in law, identical or similar to those relied on in [Case T-391/22](#), *Société générale and Others v SRB* (no. 80 above)].

- Hearing scheduled 8 February 2024

82. [Case T-393/22](#), ***BPCE and Others v SRB***, *pending*

[request to annul the SRB's decision on the calculation of the 2022 *ex-ante* contributions to the SRF and declare the [SRM Regulation](#), the [Delegated Regulation 2015/63](#) as well as the [Council Implementing Regulation \(EU\) 2015/81](#) partly inapplicable, based on eight pleas in law, identical or similar to those relied on in [Case T-391/22](#), *Société générale and Others v SRB* (no. 80 above)]

- Hearing scheduled 8 February 2024

83. [Case T-394/22](#), ***Banque postale v SRB***, *pending*

[request to annul the SRB's decision on the calculation of the 2022 *ex-ante* contributions to the SRF and declare the [SRM Regulation](#), the [Delegated Regulation 2015/63](#) as well as the [Council Implementing Regulation \(EU\) 2015/81](#) partly inapplicable, based on eight pleas in law, identical or similar to those relied on in [Case T-391/22](#), *Société générale and Others v SRB* (no. 80 above)]



<ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>	
84.	<p><a href="#">Case T-395/22</a>, <b>Hypo Vorarlberg Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on eight pleas in law, including an infringement of essential procedural requirements, of the principle of proportionality <i>juncto</i> various banking laws and that some of these laws are unlawful].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
85.	<p><a href="#">Case T-396/22</a>, <b>Landesbank Baden-Württemberg v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and <i>in eventu</i> declare that the contested decision is legally non-existent. The applicant relies on nine pleas in law, including an infringement of the <a href="#">SRM Regulation</a>, of the obligation to state reasons, of the <a href="#">Charter</a> and of higher-ranking law in the case of the <a href="#">Delegated Regulation 2015/63</a> as well as of the <a href="#">CRR</a>].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 7 February 2024</li> </ul>
86.	<p><a href="#">Case T-397/22</a>, <b>Bayerische Landesbank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and <i>in eventu</i> declare that the contested decision is legally non-existent, based on nine pleas in law, identical or similar to those relied on in <a href="#">Case T-396/22</a>, <i>Landesbank Baden-Württemberg v SRB</i> (no. 85 above)].</p>
87.	<p><a href="#">Case T-398/22</a>, <b>Deutsche Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on six pleas in law, including infringements of the <a href="#">Charter</a> and of other higher-ranking law in relation to level 2 acts].</p>
88.	<p><a href="#">Case T-399/22</a>, <b>Landesbank Hessen-Thüringen Girozentrale v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and <i>in eventu</i> declare that the contested decision is legally non-existent. The Applicant relies on nine pleas in law, including infringements of the <a href="#">Charter</a> and of other higher-ranking law in relation to level 2 acts].</p>
89.	<p><a href="#">Case T-400/22</a>, <b>Berlin Hyp v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and <i>in eventu</i> declare that the contested decision is legally non-existent, based on nine pleas in law, identical or similar to those relied on in <a href="#">Case T-396/22</a>, <i>Landesbank Baden-Württemberg v SRB</i> (no. 85 above)].</p>
90.	<p><a href="#">Case T-401/22</a>, <b>DVB Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and <i>in eventu</i> declare that the contested decision is legally non-existent, based on nine pleas in law, identical or similar to those relied on in <a href="#">Case T-396/22</a>, <i>Landesbank Baden-Württemberg v SRB</i> (no. 85 above)].</p>
91.	<p><a href="#">Case T-402/22</a>, <b>DZ Hyp v SRB</b>, <i>pending</i></p>

	<p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and in eventum declare that the contested decision is legally non-existent, based on nine pleas in law, identical or similar to those relied on in <a href="#">Case T-396/22</a>, <i>Landesbank Baden-Württemberg v SRB</i> (no. 85 above)].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 7 February 2024</li> </ul>
92.	<p><a href="#">Case T-403/22</a>, <b>DZ Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and in eventum declare that the contested decision is legally non-existent, based on nine pleas in law, identical or similar to those relied on in <a href="#">Case T-396/22</a>, <i>Landesbank Baden-Württemberg v SRB</i> (no. 85 above)].</p>
93.	<p><a href="#">Case T-404/22</a>, <b>Deutsche Kreditbank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and in eventum declare that the contested decision is legally non-existent. The Applicant relies on seven pleas in law, which includes – next to other claims already mentioned – the plea that the decision is not worded in German].</p>
94.	<p><a href="#">Case T-405/22</a>, <b>UniCredit Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on five pleas in law, referring i.a. to the <a href="#">Charter</a> as well as the unlawfulness of SRB's decision on the grounds of infringement of the law and incorrectness of the calculation].</p>
95.	<p><a href="#">Case T-406/22</a>, <b>Volkskreditbank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on eight pleas in law, identical or similar to those relied on in <a href="#">Case T-395/22</a>, <i>Hypo Vorarlberg Bank v SRB</i> (no. 84 above)].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
96.	<p><a href="#">Case T-407/22</a>, <b>Norddeutsche Landesbank – Girozentrale v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on nine pleas in law].</p>
97.	<p><a href="#">Case T-410/22</a>, <b>Crédit agricole and Others v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and declare the <a href="#">SRM Regulation</a>, the <a href="#">Delegated Regulation 2015/63</a> as well as the <a href="#">Council Implementing Regulation (EU) 2015/81</a> partly inapplicable, based on eight pleas in law, identical or similar to those relied on in <a href="#">Case T-391/22</a>, <i>Société générale and Others v SRB</i> (no. 80 above)].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
98.	<p><a href="#">Case T-411/22</a>, <b>Dexia Crédit Local v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on five pleas in law].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>

99.	<p><a href="#">Case T-420/22</a>, <b>BNP Paribas v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF and declare the <a href="#">SRM Regulation</a>, the <a href="#">Delegated Regulation 2015/63</a> as well as the <a href="#">Council Implementing Regulation (EU) 2015/81</a> partly inapplicable, based on eight pleas in law, identical or similar to those relied on in <a href="#">Case T-391/22</a>, <i>Société générale and Others v SRB</i> (no. 80 above)].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
100.	<p><a href="#">Case T-423/22</a>, <b>Max Heinr. Sutor v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on nine pleas in law].</p>
101.	<p><a href="#">Case T-430/22</a>, <b>Nordea Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on four pleas in law].</p>
102.	<p><a href="#">Case T-431/22</a>, <b>Nordea Kiinnitysluottopankki v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on four pleas in law].</p>
103.	<p><a href="#">Case T-432/22</a>, <b>Nordea Rahoitus Suomi v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision on the calculation of the 2022 <i>ex-ante</i> contributions to the SRF, based on four pleas in law].</p>
104.	<p><a href="#">Case T-599/22</a>, <b>Hypo Vorarlberg Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision of 25 July 2022 on the calculation of the 2017 <i>ex-ante</i> contributions of Hypo Vorarlberg Bank AG and Portigon AG to the SRF, at least in so far as it concerns the Hypo Vorarlberg Bank AG; the request is based on ten pleas in law].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
105.	<p><a href="#">Case T-641/22</a>, <b>Portigon v SRB</b>, <i>pending</i></p> <p>[request to annul the SRB's decision of 25 July 2022 on the calculation of the 2017 <i>ex-ante</i> contributions to the SRF and to stay the proceedings in Cases <a href="#">T-413/18</a>, <a href="#">T-481/19</a>, <a href="#">T-339/20</a>, <a href="#">T-424/20</a> and <a href="#">T-360/21</a> or until those cases are otherwise brought to a conclusion; the request is based on nine pleas in law].</p> <ul style="list-style-type: none"> <li>Hearing scheduled 8 February 2024</li> </ul>
106.	<p><a href="#">Case T-369/23</a>, <b>Hypo Vorarlberg Bank v SRB</b>, <i>pending</i></p> <p>[request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions]</p>
107.	<p><a href="#">Case T-374/23</a>, <b>Volkskreditbank v SRB</b>, <i>pending</i></p>

	[request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions - the applicant relies on nine pleas in law which are identical to those relied on in <a href="#">Case T-369/23</a> , <b>Hypo Vorarlberg Bank v SRB</b> .]
108.	<a href="#">Case T-386/23</a> , <b>Hypo-Bank Burgenland v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions - the applicant relies on nine pleas in law which are identical to those relied on in <a href="#">Case T-369/23</a> , <b>Hypo Vorarlberg Bank v SRB</b> .]
109.	<a href="#">Case T-387/23</a> , <b>Schelhammer Capital Bank v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions - the applicant relies on nine pleas in law which are identical to those relied on in <a href="#">Case T-369/23</a> , <b>Hypo Vorarlberg Bank v SRB</b> .]
110.	<a href="#">Case T-400/23</a> , <b>Erste Group Bank v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – grounds: the contested decision infringes Article 102 of the <a href="#">BRRD</a> , (1) Articles 69 and 70(2) of the <a href="#">SRM Regulation</a> , (2) Articles 3 and 4 of <a href="#">Delegated Regulation (EU) 2015/63</a> (3) and the principle of proportionality due to an incorrect determination of the target level, as the defendant set an excessive target level contrary to the EU legal framework-request to join this case with Cases T-401/23 – T-408/23]
111.	<a href="#">Case T-401/23</a> , <b>Erste Bank der österreichischen Sparkassen v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – Single plea in law which is identical to that relied on in Case T-400/23, <b>Erste Group Bank v SRB</b> – request to join this case with Cases T-400/23 – T-408/23]
112.	<a href="#">Case T-402/23</a> , <b>Steiermärkische Bank und Sparkasse v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law – request to join this case with Cases T-400/23 – T-408/23]
113.	<a href="#">Case T-403/23</a> , <b>Dornbirner Sparkasse Bank v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law identical to those relied on in Case T-402/23, <b>Steiermärkische Bank und Sparkasse v SRB</b> – request to join this case with Cases T-400/23 – T-408/23]
114.	<a href="#">Case T-404/23</a> , <b>Kärntner Sparkasse v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law seven pleas in law identical to those relied on in Case T-402/23, <b>Steiermärkische Bank und Sparkasse v SRB</b> – request to join this case with Cases T-400/23 – T-408/23]
115.	<a href="#">Case T-405/23</a> , <b>Sparkasse Niederösterreich Mitte West v SRB</b> , <i>pending</i> [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law seven pleas in law identical to those relied on in Case T-402/23, <b>Steiermärkische Bank und Sparkasse v SRB</b> – request to join this case with Cases T-400/23 – T-408/23]
116.	<a href="#">Case T-406/23</a> , <b>Tiroler Sparkasse v SRB</b> , <i>pending</i>

	[request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law seven pleas in law identical to those relied on in Case T-402/23, <i>Steiermärkische Bank und Sparkasse v SRB</i> – request to join this case with Cases T-400/23 – T-408/23]
117.	<a href="#">Case T-407/23</a> , <b>Salzburger Sparkasse Bank v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law seven pleas in law identical to those relied on in Case T-402/23, <i>Steiermärkische Bank und Sparkasse v SRB</i> – request to join this case with Cases T-400/23 – T-408/23]
118.	<a href="#">Case T-408/23</a> , <b>Sparkasse Oberösterreich Bank v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions – seven pleas in law seven pleas in law identical to those relied on in Case T-402/23, <i>Steiermärkische Bank und Sparkasse v SRB</i> – request to join this case with Cases T-400/23 – T-408/23]
119.	<a href="#">Case T-410/23</a> , <b>BAWAG PSK v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on eight pleas in law]
120.	<a href="#">Case T-412/23</a> , <b>Nordea Bank v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on one plea in law, alleging that the SRB has infringed Article 70(2) of the <a href="#">SRM Regulation</a> by not applying the binding 12.5 % cap to the target level when determining the 2023 annual target level]
121.	<a href="#">Case T-413/23</a> , <b>Nordea Kiinnitysluottopankki v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on one plea in law, alleging that the SRB has infringed Article 70(2) of the <a href="#">SRM Regulation</a> by not applying the binding 12.5 % cap to the target level when determining the 2023 annual target level]
122.	<a href="#">Case T-414/23</a> , <b>Nordea Rahoitus Suomi v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on one plea in law, alleging that the SRB has infringed Article 70(2) of the <a href="#">SRM Regulation</a> by not applying the binding 12.5 % cap to the target level when determining the 2023 annual target level]
123.	<a href="#">Case T-440/23</a> , <b>Berlin Hyp v SRB</b> , <i>pending</i>  [request to annul the SRB decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on nine pleas in law, and, alternatively, a request that the contested decision be declared legally non-existent as a result of the use of the incorrect official language by the SRB (!).]
124.	<a href="#">Case T-446/23</a> , <b>UniCredit Bank v SRB</b> , <i>pending</i>  [request to annul the Single Resolution Board decision of 2 May 2023 on the calculation of the 2023 <i>ex-ante</i> contributions based on eight pleas in law hich are identical to those relied on in <a href="#">Case T-410/23</a> , <i>BAWAG PSK v SRB</i> ]



125. [Case T-456/23](#), *Crédit Agricole and Others v SRB*, *pending*

[request, pursuant to Article 263 TFEU, to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF in so far as it concerns the applicants; pursuant to Article 277 TFEU, to declare the following provisions of the SRM Regulation, the Implementing Regulation and the Delegated Regulation inapplicable; — Articles 69(1), 69(2), 70(1) and 70(2)(a) and (b) of the SRM Regulation; Articles 4(2), 5, 6, 7 and 20 of the Delegated Regulation, and Annex I thereto; Article 4 of the Implementing Regulation; and order the SRB to pay the costs in their entirety.

Eight pleas in law: alleging infringement of the principles 1. of **equal treatment** in that the methods of calculation of ex-ante contributions to the Single Resolution Fund (SRF) laid down in the SRM Regulation and the Delegated Regulation do not reflect the actual size or actual risk of the institutions, which results in their being treated in the same manner as other institutions with different characteristics; 2. of **proportionality** in that the mechanism of ex-ante contributions to the SRF is based on an assessment which artificially exacerbates the risk profile of large French institutions and therefore leads to a disproportionately high contribution amount compared to the actual risk generated by those institutions; 3. of **legal certainty**, since the calculation of the amount of the *ex-ante* contributions does not enable banks to anticipate and control with sufficient precision the amount of the contribution that they will have to pay; 4. of **good administration**, including the **obligation to state reasons**, in that not all of the risk indicators were duly taken into account in the contested decision; the SRB's option given as to whether or not to take account of those criteria (Article 20 Delegated Regulation) is not lawful; 5. alleging an **error of law** as regards the fixing of the adjustment coefficient; 6. alleging an **error of law** as regards the restriction on the use of irrevocable payment commitments; 7. **manifest error of assessment**: the pro-cyclicality and liquidity risks relied on by the SRB in order to limit the use of IPCs are unfounded, in the light of the specific characteristics of the IPCs and the context of their use; 8. alleging infringement of the **obligation to state reasons** concerning fixing the ceiling on the use of IPCs at 22.5 % and accepting as collateral cash only.]

126. [Case T-458/23](#), *BPCE and Others v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 ex-ante contributions to the SRF in so far as it concerns the applicants; requests to declare the same provisions of of the same legal acts inapplicable as in [Case T-456/23](#) (entry 125 above)]

127. [Case T-459/23](#), *Société générale and SG Option Europe v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF in so far as it concerns the applicants; requests to declare the same provisions of of the same legal acts inapplicable as in [Case T-456/23](#) (entry 125 above)]

128. [Case T-460/23](#), *Banque postale v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF in so far as it concerns the applicant; requests to declare the same provisions of of the same legal acts inapplicable as in [Case T-456/23](#) (entry 125 above)]

129. [Case T-461/23](#), *Dexia Crédit Local v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF and order the SRB to pay the costs.

Based on different pleas than those of the other French banks; represented by different lawyers.

Five pleas in law: 1. alleging that **the contested decision infringes Article 69 of the [SRM Regulation](#)** in so far as it sets the target level for 2023 at an amount exceeding 12,5 % of the target level; 2. alleging that [Delegated Regulation No 2015/63](#) (2) **is unlawful because it infringes the principle of proportionality** in so far as the calculation of the *ex-ante* contributions to the SRF (i) is not consistent with the objectives pursued by the [SRM Regulation](#) and (ii) does not take into account the fact that the applicant is a credit institution in run-off management [*en gestion extinctive*] which is covered by a State guarantee and in respect of which the SRF will theoretically never be called upon and (iii) makes its orderly resolution more expensive; **and infringes the principle of equal treatment** in so far as it treats institutions in run-off management under State guarantee and operational institutions in the same way; 3. [alternative plea] **alleging that the SRB infringed the principles of proportionality and equal treatment** for the same reasons as those stated in the second plea in law, in so far as the SRB failed to respect those principles by applying, without any adjustment, the provisions of [Delegated Regulation No 2015/63](#) to the applicant; 4. **alleging lack of legal basis** for Articles 5, 69 and 70 of the [SRM Regulation](#) in so far **as they were adopted on the basis of Article 114 TFEU even though they do not concern approximation of laws**; 5. **alleging lack of legal basis** for Articles 69 and 70 of the [SRM Regulation](#) in so far **as they were adopted on the basis of Article 114 TFEU despite the fact that they are fiscal provisions.**]

130. [Case T-466/23](#), *Confédération nationale du Crédit mutuel and Others v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF in so far as it concerns the applicant; requests to declare the same provisions of of the same legal acts inapplicable as in [Case T-456/23](#) (entry 125 above)]

131. [Case T-469/23](#), *BNP Paribas v SRB*, *pending*

[request to annul Decision SRB/ES/2023/23 of 2 May 2023 on the calculation of the 2023 *ex-ante* contributions to the SRF in so far as it concerns the applicant; requests to declare the same provisions of of the same legal acts inapplicable as in [Case T-456/23](#) (entry 125 above)]

132. [Case T-428/23](#), *ABN AMRO Bank and ABN AMRO Hypotheken Groep v SRB*, *pending*

[[request to annul](#) in part the decision of the SRB of 2 May 2023 (SRB/ES/2023/23), including the annexes thereto, in so far as it leads to an incorrect and unjustifiable determination of *ABN AMRO Hypotheken Groep's* contributions ('AAHG') for 2016, 2017, 2018, 2019, 2020, 2021, 2022 and/or 2023 to the SRF, by including the adjustment item on AAHG's balance sheet in the calculation of contributions and, in particular, in AAHG's 'total liabilities'.

Three pleas in law: (1) the contested decision determines AAHG's contribution to the Single Resolution Fund ('SRF') for the years 2016 to 2023 in breach of the [SRM Regulation](#) and [Commission Delegated Regulation \(EU\) 2015/63](#); (2) alleged infringement of the principles of legal certainty, protection of legitimate expectations and the right to good administration (Article 41 of the [Charter of Fundamental Rights of the European Union](#)), which must also be examined in the light of the right to the protection of property (Article 17 of the [Charter](#)); (3) alleged infringement of the principle of proportionality (Article 5(4) TFEU and Article 52(1) of the Charter), which is also protected by the right to good administration (Article 41 of the Charter) and the right to protection of property (Article 17 of the Charter). Attorneys: [Rogier Raas](#) and [Tom Barkhuysen](#).]

### 3.2 Actions related to the resolution of Banco Popular Español, SA

The pending cases on the resolution of *Banco Popular Español, SA* (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, SA* ('[Commission Decision](#)'). Where the ECB is concerned, the proceedings concern its Failing or Likely to Fail assessment adopted on 6 June, a *public non-confidential version* of which is available on the ECB 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. The list below does not include the cases brought before the SRB Panel (available [here](#)).

Footnotes are explained at the bottom of the document.

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). Also coloured [light blue](#) are cases for compensation only. 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](#)].



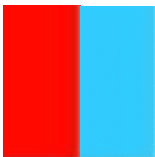
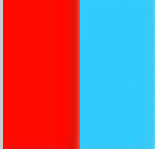


Proceedings not coloured are cases on access to information (see items nos. 86 and 95), and the separate proceedings concerning *Banco Popular Español* between the SRB and the EDPS (no. 110).

No.	Case	Colour Code
1.	<p><a href="#">Case T-473/17</a>, <b>Jarabo Sancho et Jarsan Centro de Gestion v SRB</b>, <i>closed</i></p> <p>[<a href="#">request</a> for the annulment of the SRB Decision and the production of the reports mentioned in the request]</p> <ul style="list-style-type: none"> <li>Order of 27 October 2017 dismissing the action for manifest inadmissibility <a href="#">ECLI:EU:T:2017:778</a></li> <li>Order of 1 December 2017 rectifying the previous Order (names of judges corrected) <a href="#">ECLI:EU:T:2017:864</a></li> </ul>	<a href="#">colour: orange</a>
2.	<p><a href="#">Case T-478/17</a>, <b>Mutualidad General de la Abogacía, Mutualidad de Previsión Social a prima fija and Hermandad Nacional de Arquitectos Superiores y Químicos, Mutualidad de Previsión Social a prima fija v SRB</b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision of 7 June 2017 (SRB/EES/2017/08) establishing a resolution scheme for <i>Banco Popular Español</i>. In support of their action, the applicants rely on ten pleas in law, which include the failure to state reasons for the</p>	<a href="#">colour: orange</a>

<p>contested decision, an infringement of the rights of defence, an infringement of the right to property and the right to a legal remedy].</p> <p>3. <a href="#">Case T-481/17</a>, <b>Fundación Tatiana Pérez de Guzmán el Bueno and SFL v SRB</b>, <i>closed</i></p> <p>[request for annulment of the SRB Decision of 7 June 2017 (SRB/EES/2017/08). The pleas in law and main arguments are those relied on in Case T-478/17].</p> <ul style="list-style-type: none"> <li>Judgment of 1 June 2022 dismissing the action <a href="#">ECLI:EU:T:2022:311</a> (<a href="#">Press release</a>)</li> </ul> <p><a href="#">Summary by Patrick Raschner</a></p> <p><b>Appeal:</b> <a href="#">Case C-448/22 P</a>, <b>SFL v SRB</b>, <i>pending</i></p> <p>[request to set aside the judgment as well as the SRB Decision and <i>in event</i> refer the case back to the General Court. The applicant relies on eight pleas in law, including an infringement of the right to effective judicial protection as well as of the duty to state reasons (Article 47 of the <a href="#">Charter</a>), of Articles 17 and 52 of the <a href="#">Charter</a> and of the <a href="#">SRM Regulation</a> (Article 18 and 20) as well as the <a href="#">BRRD</a> (Article 39)]</p> <p><b>Appeal:</b> <a href="#">Case C-551/22 P</a>, <b>Commission v SRB</b>, <i>pending</i></p> <p>[request to annul the judgment in so far as the General Court found the action for annulment to be admissible; declare the action for annulment brought in <a href="#">Case T-481/17</a> inadmissible, and, consequently, dismiss it in its entirety. The Commission relies on three pleas in law, in particular (i) an error in the interpretation in so far as it treats the resolution scheme as a challengeable act, (ii) an infringement of the rights of the defence of the Commission and (iii) contradictory reasoning in the judgment under appeal]</p> <ul style="list-style-type: none"> <li>Opinion of Advocate General Ćapeta delivered on 9 November 2023; <a href="#">ECLI:EU:C:2023:846</a></li> </ul> <p>The Advocate General observes that “the legally relevant <i>author</i> of an act is the body whose decision put an end to the procedure” and “since the procedure ends with the approval of the resolution scheme, that body is the Commission”, so that he concludes as follows: “the resolution scheme has no independent legal existence, and thus cannot be challenged independently of the Commission’s endorsement. A direct action should challenge the Commission’s endorsement of the SRB’s resolution scheme. Therefore, there is a single challengeable act with the Commission as its author.”</p>	
<p>4. <a href="#">Case T-482/17</a>, <b>Comercial Vascongada Recalde v Commission and SRB</b>, <i>pending</i></p> <p>[<a href="#">request</a> 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 <a href="#">SRM Regulation</a> insofar as <i>Banco Popular</i> was not ‘failing’ as described in those provisions; (ii) infringement of Articles 10(10), 10(11) and 21(2)(b) of the <a href="#">SRM Regulation</a> insofar as there were alternatives to the resolution of <i>Banco Popular</i>]</p>	

5.	<a href="#"><u>Case T-483/17</u></a> , <b><i>García Suárez and Others v Commission and SRB<sup>3</sup></i></b> , <i>pending</i>  [request for annulment of the SRB and Commission Decisions and for compensation]	
6.	<a href="#"><u>Case T-484/17</u></a> , <b><i>Fidesban and Others v SRB<sup>2</sup></i></b> , <i>pending</i>  [request for annulment of the SRB Decision]	
7.	<a href="#"><u>Case T-497/17</u></a> , <b><i>Sánchez del Valle and Calatrava Real State 2015 v Commission and SRB</i></b> , <i>pending</i>  [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 <a href="#"><u>SRM Regulation</u></a> by failing to carry out a reasonable, prudent and realistic valuation of the assets and liabilities of <i>Banco Popular</i> by an independent person before the resolution decision; (iii) infringement of Article 18(1)(a) in conjunction with Article 18(4)(c) of the <a href="#"><u>SRM Regulation</u></a> : the contested decisions uphold the resolution of <i>Banco Popular</i> 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 <a href="#"><u>SRM Regulation</u></a> : the contested decisions consent to the resolution of <i>Banco Popular</i> , 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 <a href="#"><u>SRM Regulation</u></a> : 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 <a href="#"><u>SRM Regulation</u></a> : 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 <a href="#"><u>SRM Regulation</u></a> : the shareholders ought to have received more than they would receive in the event of insolvency; (viii) infringement of Article 29 of the <a href="#"><u>SRM Regulation</u></a> ; (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]	
8.	<a href="#"><u>Case T-498/17</u></a> , <b><i>Pablo Álvarez de Linera Granda v Commission and SRB<sup>3</sup></i></b> , <i>pending</i>  [request for annulment of the SRB and Commission Decisions and for compensation]	
9.	<a href="#"><u>Case T-499/17</u></a> , <b><i>Esfera Capital Agencia de Valores v Commission and SRB<sup>3</sup></i></b> , <i>pending</i>  [request for annulment of the SRB and Commission Decisions and for compensation]	



10.	<a href="#"><u>Case T-501/17</u></a> , <b>Mutualidad Complementaria de Previsión Social Renault España v Commission and SRB<sup>3</sup></b> , <i>pending</i>  [ <a href="#">request</a> 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 <i>Banco Popular</i> ), although they were instruments issued by Banco Popular]	
11.	<a href="#"><u>Case T-502/17</u></a> , <b>SFP Asset Management and Others v SRB<sup>3</sup></b> , <i>partially closed</i>  [ <a href="#">request</a> for annulment of the SRB Decision]  [ <a href="#">order</a> from 25 April 2023, dismissing the request to the extent that it was filed by SFP Asset Management SA and Twenty First Trade Inc. for failure to appoint a representative]	
12.	<a href="#"><u>Case T-505/17</u></a> , <b>Inverni and Others v Commission and SRB<sup>3</sup></b> , <i>pending</i>  [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	
13.	<a href="#"><u>Case T-507/17</u></a> , <b>Fundación Pedro Barrié de la Maza, Conde de Fenosa v Commission and SRB<sup>3</sup></b> , <i>pending</i>  [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	
14.	<a href="#"><u>Case T-508/17</u></a> , <b>Financiere Tesalia and Others v Commission and SRB<sup>3</sup></b> , <i>pending</i>  [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	
15.	<a href="#"><u>Case T-509/17</u></a> , <b>Cartera de Inversiones Melca and Others v Commission and SRB<sup>3</sup></b> , <i>pending</i>  [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	

16. [Case T-510/17](#), *Del Valle Ruiz and Others v Commission and SRB*, *closed*

[request for annulment of the SRB Decision of 7 June 2017 (SRB/EES/2017/08), the European Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for Banco Popular Español, SA (OJ 2017 L 178, p. 15) and to declare illegal Articles 18 and 22 of the [SRM Regulation](#). The 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 Regulation](#) in 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].

- Judgment of 1 June 2022 dismissing the action [ECLI:EU:T:2022:312](#) ([Press release](#))

See the summary at Case T-481/17

**Appeal:** [Case C-539/22 P](#), *Del Valle Ruíz and Others v Commission and SRB*, *pending*








[request to set aside the judgment and refer the case back to the General Court, relying on two pleas in law (i) that the Court erred in the context of Article 47 of the [Charter](#) and (ii) erred in finding that the appellants must adduce evidence sufficient to render the factual assessments adopted by the respondents “implausible”].

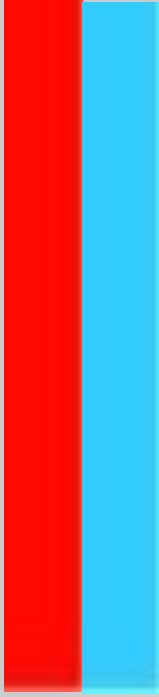


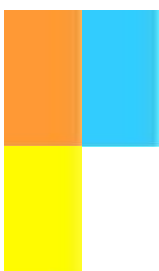

**Note**







Arbitral proceedings have been underway between the applicants and Spain since 2018; see [PCA Case No. 2019-17, Valle Ruiz and others v. Spain](#), initiated under the 2006 [Mexico-Spain Bilateral Investment Treaty](#), resulting in an arbitral award of 13 March 2023, rejecting the claims and ordering the applicants to pay to Spain costs for legal fees and for the arbitration amounting almost € 8 million.

17. [Case T-512/17](#), *OCU and Others v SRB*<sup>3</sup>, *pending*


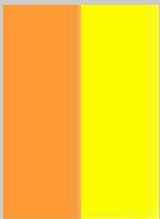


[request for annulment of the SRB Decision and to declare Articles 18 and 29 of the [SRM Regulation](#) illegal and inapplicable]

18.	<a href="#">Case T-515/17</a> , <b>Sánchez Valverde e Hijos v SRB</b> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision and for compensation]	
19.	<a href="#">Case T-516/17</a> , <b>Imasa, Ingeniería y Proyectos v Commission and SRB</b> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	
20.	<a href="#">Case T-517/17</a> , <b>Grúas Roxu v Commission and SRB</b> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission Decisions]	
21.	<a href="#">Case T-518/17</a> , <b>Olarreaga Marques and Saralegui Reyzaal v SRB</b> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision]	
22.	<a href="#">Case T-520/17</a> , <b>Gestvalor 2040 e.a. v SRB</b> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision] <ul style="list-style-type: none"> <li>Order of 9 October 2017 for partial removal of the parties from the case <a href="#">ECLI:EU:T:2017:723</a></li> </ul>	
23.	<a href="#">Case T-521/17</a> , <b>Hernández Díaz v SRB</b> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> 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]	
24.	<a href="#">Case T-522/17</a> , <b>Nap Innova Hoteles v SRB</b> , <i>closed</i> [ <a href="#">request</a> for annulment of the SRB Decision and for compensation] <ul style="list-style-type: none"> <li>Order of 4 December 2017, dismissing the claim as manifestly inadmissible <a href="#">ECLI:EU:T:2017:881</a></li> </ul> <b>Appeal:</b> <a href="#">Case C-731/17 P</a> , <b>Nap Innova Hoteles v SRB</b> , <i>closed</i> <ul style="list-style-type: none"> <li>Order of 5 July 2018 dismissing the appeal as manifestly inadmissible and manifestly unfounded <a href="#">ECLI:EU:C:2018:546</a></li> </ul>	

<p>25. <a href="#">Case T-523/17</a>, <i>Eleveté Invest Group and Others v Commission and SRB</i><sup>3</sup>, <i>closed</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision of 7 June 2017 (SRB/EES/2017/08) and the Commission Decision (UE) 2017/1246 (OJ 2017, L 178, p. 15), 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 <i>Banco Popular</i>, order SRB and the European Commission to pay compensation to the applicants]</p> <ul style="list-style-type: none"> <li>Judgment of 1 June 2022 dismissing the action <a href="#">ECLI:EU:T:2022:313</a> (<a href="#">Press release</a>)</li> </ul> <p>See the summary at Case T-481/17</p> <p><b>Appeal:</b> <a href="#">Case C-541/22 P</a>, <i>García Fernández and Others v Commission and SRB</i>, <i>pending</i></p> <p>[<a href="#">request</a> to set aside the judgment in its entirety or, alternatively, in part; or issue a judgment; the appellants raise four grounds of appeal in support of their claim, i.a. that it is vitiated by numerous errors in the application and interpretation of the <a href="#">SRM Regulation</a>, inadequate and contradictory reasoning, and errors in the legal characterisation and consequences of the facts and the assessment of the evidence].</p>	
<p>26. <a href="#">Case T-524/17</a>, <i>Folch Torrela and Others v SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision]</p>	
<p>27. <a href="#">Case T-525/17</a>, <i>Taberna Ángel Sierra and Others v SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and to declare Articles 18 and 29 of the <a href="#">SRM Regulation</a> illegal and inapplicable]</p>	
<p>28. <a href="#">Case T-526/17</a>, <i>Ruiz Jayo and Others v SRB</i>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the <a href="#">SRM Regulation</a>]</p>	
<p>29. <a href="#">Case T-527/17</a>, <i>Waisman and Others v SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> 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 <a href="#">SRM Regulation</a>, between the payment received by the applicants pursuant to the resolution decision and the amount they would have received under a normal insolvency procedure]</p>	

30.	<p><a href="#">Case T-529/17</a>, <b>Blasi Gómez and Others v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[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 <i>Banco Popular</i> 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 <i>Banco Popular</i> which implies the compensation of the applicants, as shareholders and creditors of that institution in accordance with the new valuation]</p>	
31.	<p><a href="#">Case T-530/17</a>, <b>López Campo and Others v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[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]</p>	
32.	<p><a href="#">Case T-531/17</a>, <b>Promociones Santa Rosa v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision]</p>	
33.	<p><a href="#">Case T-535/17</a> <b>Asociación de Consumidores de Navarra 'Irache' v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[request for annulment of the SRB Decision, declare the transactions carried out under it ineffective and order the return of the property of <i>Banco Popular</i> 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]</p>	
34.	<p><a href="#">Case T-538/17</a>, <b>Jess Liberty v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[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]</p>	
35.	<p><a href="#">Case T-544/17</a>, <b>Imabe Ibérica v SRB<sup>3</sup></b>, <i>pending</i></p> <p>[request to acknowledge the lodging of the action against the SRB Decision in compliance with the provisions of Article 29 of the <a href="#">SRM Regulation</a>, 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]</p>	



<p>36. <a href="#">Case T-545/17</a>, <b><i>Afectados Banco Popular v SRB</i></b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision, declaring transactions carried out under it ineffective and order the return of the property of <i>Banco Popular</i> 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]</p>	
<p>37. <a href="#">Case T-552/17</a>, <b><i>Maña and Others v SRB</i></b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for inapplicability of Articles 18 and 29 of the <a href="#">SRM Regulation</a> inapplicable]</p> <ul style="list-style-type: none"> <li>Order of 25 October 2017 for the partial removal of the case from the register <a href="#">ECLI:EU:T:2017:780</a></li> </ul>	
<p>38. <a href="#">Case T-554/17</a>, <b><i>González Calvet v SRB</i></b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for compensation]</p>	
<p>39. <a href="#">Case T-555/17</a>, <b><i>TW and Others v SRB</i></b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision]</p> <ul style="list-style-type: none"> <li>Order of 17 May 2018 dismissing the action presented by one of the applicants (UB) as manifestly inadmissible <a href="#">ECLI:EU:T:2018:300</a></li> </ul>	

40. [Case T-557/17](#), *Liaño Reig v SRB*<sup>3</sup>, *closed*

[[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]

- Order of 24 October 2019 dismissing the claims as inadmissible [ECLI:EU:T:2019:771](#)

**Appeal:** [Case C-947/19 P](#), *Liaño Reig v SRB*, *closed*

[request to set aside the order of the General Court and ordering the appellant to pay the costs of the SRB, set out in paragraphs 1 and 3, respectively, of the operative part of the order, and give final judgment in the case brought by the appellant before the General Court, allowing all the claims set out in the application before the General Court, if it considers that the state of the proceedings so permits, or, if not, refer the case back to the General Court for judgment, reserving the decision on costs. The appeal is based on 13 grounds, contesting in particular the General Court's conclusion that the partial annulment of the resolution decision requested by the appellant cannot be separated from the other elements of the resolution scheme without altering the substance of the resolution decision, the fact that the order violates the principle of equal treatment of creditors of the same class]

- Judgment of 4 March 2021 dismissing the appeal [ECLI:EU:C:2021:172](#)

41. [Case T-563/17](#), *Gayalex Proyectos v SRB*<sup>3</sup>, *pending*

[[request](#) for annulment of the SRB Decision]

42. [Case T-566/17](#), *Molina García v SRB*<sup>3</sup>, *pending*





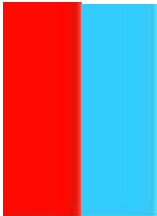
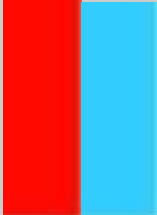
[[request](#) for annulment of the SRB Decision and for compensation]


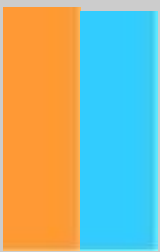
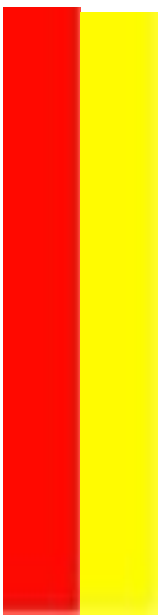
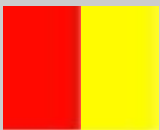
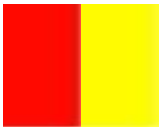
43. [Case T-570/17](#), *Algebris (UK) and Others v Commission*, *closed*

[[request](#) for annulment of the Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for *Banco Popular Español*, SA (OJ 2017 L 178, p. 15), on the basis of 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](#)]

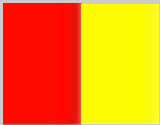
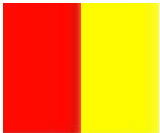
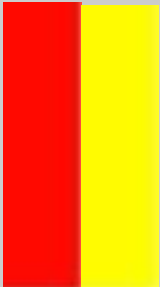





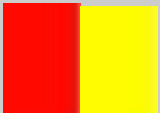
- Order of 13 June 2018 removing the applicant name, Ronit Capital LLP, from the list of applicants [ECLI:EU:T:2018:361](#)
- Order of 12 April 2019 granting Banco Santander, SA permission to intervene in support of the form of order sought by the European Commission [ECLI:EU:T:2019:262](#),
- Order of 12 April 2019 granting the SRB permission to intervene in support of the form of order sought by the European Commission [ECLI:EU:T:2019:261](#)
- Judgment of 1 June 2022 dismissing the action [ECLI:EU:T:2022:314](#) ([Press release](#))












See the summary at Case T-481/17

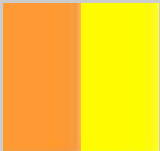



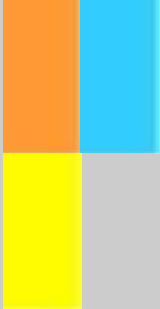
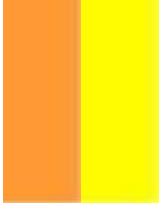
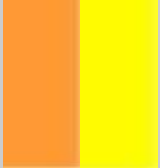
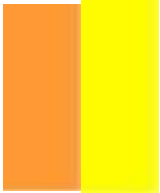


44.	<p><a href="#">Case T-575/17</a>, <b>Algebris (UK) and Others v SRB</b>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision, relying on five pleas in law. The first four pleas in law are the same as the ones raised in <a href="#">Case T-570/17</a>. With the fifth plea, 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 <a href="#">SRM Regulation</a> and of the principles of the <a href="#">Meroni case-law</a> 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]</p>	
45.	<p><a href="#">Case T-585/17</a>, <b>Alonso Goñi and Others v SRB</b>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for compensation]</p>	
46.	<p><a href="#">Case T-592/17</a>, <b>Serra Noguera and Others v SRB</b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for compensation]</p>	
47.	<p><a href="#">Case T-597/17</a>, <b>Poza Poza v SRB</b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for compensation]</p>	
48.	<p><a href="#">Case T-613/17</a>, <b>La Guirigaña and Others v ECB and SRB</b><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> 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]</p>	
49.	<p><a href="#">Case T-618/17</a>, <b>Activa Minoristas del Popular v ECB and SRB</b><sup>3</sup>, <i>closed</i></p> <p>[<a href="#">request</a> for annulment of the SRB and ECB decisions and of the independent expert's valuation and for compensation]</p> <ul style="list-style-type: none"> <li>Order of 24 September 2018 dismissing the action as manifestly inadmissible <a href="#">ECLI:EU:T:2018:608</a></li> </ul>	

50.	<p><a href="#">Case T-619/17</a>, <i>de la Fuente Martín and Others v SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> 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 <i>Banco Popular</i> and, consequently, reinstate their rights in full; in the alternative, declare that SRB's contested decision has caused harm to <i>Banco Popular</i> 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]</p>	
51.	<p><a href="#">Case T-623/17</a>, <i>Previsión Sanitaria Nacional, PSN, Mutua de Seguros y Reaseguros a Prima Fija v SRB</i><sup>3</sup>, <i>closed</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision and for compensation]</p> <p>[<a href="#">Order</a> of the General Court of 2 February 2023, removing the case from the register, following the withdrawal of the request by the applicant]</p>	
52.	<p><a href="#">Case T-628/17</a>, <i>Aeris Invest v Commission and SRB</i><sup>3</sup>, <i>closed</i></p> <p>[<a href="#">request</a> for annulment of the SRB Decision of 7 June 2017 (SRB/EES/2017/08) and the Commission Decision (EU) 2017/1246 of 7 June 2017 (OJ 2017, L 178, p. 15) and to declare Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> inapplicable]</p> <ul style="list-style-type: none"> <li>Judgment of June 2022 dismissing the action <a href="#">ECLI:EU:T:2022:315</a> (<a href="#">Press release</a>)</li> </ul> <p>See the summary at Case T-481/17</p> <p><b>Appeal:</b> <a href="#">Case C-535/22 P</a>, <i>Aeris Invest v Commission and SRB</i>, <i>pending</i></p> <p>[request to set aside the judgment and annul the SRB-Decision, the Commission Decision endorsing the resolution scheme as well as declare Articles 15 and 22 of <a href="#">SRM Regulation</a> inapplicable in accordance with Article 277 TFEU; alternatively, refer the case back to the General Court. The applicant relies on eight grounds, including an infringement of Article 17, 47, 52 of the <a href="#">Charter</a>, of Article 5 TFEU and of Article 14, 18 and 20 of the <a href="#">SRM Regulation</a>]</p>	
53.	<p><a href="#">Case T-630/17</a>, <i>Top Cable v Commission and SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> inapplicable]</p>	
54.	<p><a href="#">Case T-631/17</a>, <i>Hola v Commission and SRB</i><sup>3</sup>, <i>pending</i></p> <p>[<a href="#">request</a> for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> inapplicable]</p>	



55.	<a href="#">Case T-637/17</a> , <i>Policlínico Centro Médico de Seguros and Medicina Asturiana v Commission and SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission Decisions and that Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> are declared inapplicable]	
56.	<a href="#">Case T-638/17</a> , <i>Helibética v Commission and SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> inapplicable]	
57.	<a href="#">Case T-640/17</a> , <i>Escriba Serra and Others v Commission and SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for the partial annulment of the SRB Decision in so far as it orders the conversion and write down of <i>Banco Popular</i> subordinated bonds and of the Commission Decision in so far as it orders the conversion of <i>Banco Popular</i> subordinated bonds; in the alternative annul both decisions in full; and to declare Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a> inapplicable]	
58.	<a href="#">Case T-642/17</a> , <i>González Buñuel and Others v SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision and for compensation]	
59.	<a href="#">Case T-643/17</a> , <i>Euroways v Commission and SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 <a href="#">SRM Regulation</a> inapplicable]	
60.	<a href="#">Case T-648/17</a> , <i>Dadimer and Others v SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision and for compensation]	
61.	<a href="#">Case T-653/17</a> , <i>Relea Álvarez and Others v SRB</i> <sup>3</sup> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision and for compensation]	
62.	<a href="#">Case T-659/17</a> , <i>Vallina Fonseca v SRB</i> , <i>pending</i> [ <a href="#">request</a> for compensation based 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 of the <a href="#">SRM Regulation</a> , in that a crisis that SRB allegedly itself triggered has led to the adoption of an act adversely affecting <i>Banco Popular</i> 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 <i>nemo auditur turpitudinem suam allegans</i> ; (iii) infringement of Articles 17 and 41 of the <a href="#">Charter</a> ; (iv) the SRB infringed Article 17 of the <a href="#">Charter</a> and Article 54 of the TEU ( <i>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</i> )]	
63.	<a href="#">Case T-660/17</a> , <i>Miralla Inversiones v Commission and SRB</i> <sup>3</sup> , <i>pending</i>	

	<a href="#">[request]</a> for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the <a href="#">SRM Regulation</a>	
64.	<a href="#">Case T-661/17</a> , <b>Fundación Agustín de Betancourt v SRB</b> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB and for compensation]	
65.	<a href="#">Case T-662/17</a> , <b>Link Flexible and Others v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
66.	<a href="#">Case T-663/17</a> , <b>Sahece and Others v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
67.	<a href="#">Case T-669/17</a> , <b>Hernando Avendaño and Others v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
68.	<a href="#">Case T-670/17</a> , <b>LG Vaquero Aviación and Others v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
69.	<a href="#">Case T-675/17</a> , <b>Aplicacions de Servei Monsan and Others v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
70.	<a href="#">Case T-678/17</a> , <b>Minera Catalano Aragonesa and Luengo Martínez v Commission and SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB and the Commission Decisions]	
71.	<a href="#">Case T-679/17</a> , <b>Grupo Villar Mir v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> for annulment of the SRB Decision and for compensation]	
72.	<a href="#">Case T-680/17</a> , <b>Helibética v SRB</b> <sup>4</sup> , <i>pending</i> <a href="#">[request]</a> for compensation]	
73.	<a href="#">Case T-685/17</a> , <b>Miralla Inversiones v SRB</b> <sup>3</sup> , <i>pending</i> <a href="#">[request]</a> 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 <a href="#">SRM Regulation</a> 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]	
74.	<a href="#">Case T-686/17</a> , <b>Policlínico Centro Médico de Seguros and Medicina Asturiana v SRB</b> <sup>4</sup> , <i>pending</i> <a href="#">[request]</a> for compensation]	

75.	<a href="#">Case T-687/17</a> , <b>Vendrell Marti v SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> 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 <a href="#">SRM Regulation</a> illegal and inapplicable]	
76.	<a href="#">Case T-688/17</a> , <b>Hola v SRB<sup>4</sup></b> , <i>pending</i> [ <a href="#">request</a> for compensation]	
77.	<a href="#">Case T-689/17</a> , <b>Top Cable v SRB<sup>4</sup></b> , <i>pending</i> [ <a href="#">request</a> for compensation]	
78.	<a href="#">Case T-690/17</a> , <b>Uluru and Others v Commission and SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB and Commission decisions and of the independent expert's valuation and for compensation]	
79.	<a href="#">Case T-693/17</a> , <b>García Gómez and Others v SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the <a href="#">SRM Regulation</a> ]	
80.	<a href="#">Case T-700/17</a> , <b>Traviacar and Others v SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> 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 <a href="#">SRM Regulation</a> illegal and inapplicable] Order of 16 November 2017 removing some of the applicants from the list of the plaintiffs upon their request <a href="#">ECLI:EU:T:2017:841</a>	
81.	<a href="#">Case T-701/17</a> , <b>OCU v SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 <a href="#">SRM Regulation</a> illegal and inapplicable]	
82.	<a href="#">Case T-705/17</a> , <b>Temes Rial and Others v SRB<sup>3</sup></b> , <i>pending</i> [ <a href="#">request</a> 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 <a href="#">SRM Regulation</a> and to declare Articles 18 and 29 of the <a href="#">SRM Regulation</a> illegal and inapplicable]	
83.	<a href="#">Case T-707/17</a> , <b>Euroways v SRB<sup>4</sup></b> , <i>pending</i> [ <a href="#">request for compensation</a> ]	
84.	<a href="#">Case T-731/17</a> , <b>Escribà Serra and Others v SRB<sup>4</sup></b> , <i>pending</i> [ <a href="#">request for compensation</a> ]	

<p>85. <a href="#">Case T-735/17</a>, <i>Asociación de Usuarios de Bancos, Cajas y Seguros de España v SRB</i><sup>3</sup>, <i>pending</i> [<a href="#">request for annulment</a> of the SRB Decision]</p>	
<p>86. <a href="#">Case T-15/18</a>, <i>OCU v ECB</i>, <i>closed</i> [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 <i>Banco Popular Español</i>. The applicant relies on a single plea in law, based on the right to good administration (Article 41(2) of the <a href="#">Charter</a>), namely, in the form of access to documents for the proper exercise of the right of defence]</p> <ul style="list-style-type: none"> <li>Judgment of 6 October 2021 dismissing the appeal; <a href="#">ECLI:EU:T:2021:661</a>, available in French and Spanish.</li> </ul>	
<p>87. <a href="#">Case T-16/18</a>, <i>Activos e Inversiones Monterroso v SRB</i>, <i>pending</i> [<a href="#">claim for annulment</a> of the SRB decision of 8 November 2017 denying applicants the right to access documents in relation to the resolution of <i>Banco Popular</i>. Pleas in law: the SRB confused the <i>general right of access to documents</i>, on which any EU citizen can rely with the "clearly separate" <i>right of access to the file</i>, 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 <a href="#">Charter</a> requires that Article 90(4), and not 90(1) of the <a href="#">SRM Regulation</a> must be applied]</p> <ul style="list-style-type: none"> <li>Order admitting <i>Banco Santander, SA</i> to intervene in the case T-16/18 in support of the SRB <a href="#">ECLI:EU:T:2019:35</a></li> </ul>	

88. [Case T-62/18](#), *Aeris Invest v SRB*, *pending*

SRB Appeal Panel

[[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 \(EC\) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents](#) 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]

- Order of the President of the 8<sup>th</sup> Chamber of the General Court of 27 July 2018, admitting *Banco Santander* as intervener supporting the SRB, [ECLI:EU:T:2018:513](#)



89.	<a href="#">Case T-314/18</a> , <i>Hashem and Assi v SRB</i> , <i>pending</i>  [ <a href="#">request for compensation</a> . The pleas in law and main arguments are similar to those relied on in <a href="#">Case T-659/17</a> , Vallina Fonseca v SRB]	
90.	<a href="#">Case T-315/18</a> , <i>Calvo Gutierrez and Others v SRB</i> , <i>pending</i>  [ <a href="#">request for compensation</a> . The pleas in law and main arguments are similar to those relied upon in <a href="#">Case T-659/17</a> , Vallina Fonseca v SRB]	
91.	<a href="#">Case T-405/18</a> , <i>Holmer Dahl v SRB</i> , <i>pending</i>  [ <a href="#">request for compensation</a> . The pleas in law and main arguments are similar to those relied upon in <a href="#">Case T-659/17</a> , Vallina Fonseca v SRB]	
92.	<a href="#">Case T-480/18</a> , <i>Ontier España, S.L. v SRB</i> , <i>closed</i>  [ <a href="#">request for annulment</a> of the SRB decision of 10 June 2018 which rejected the request for access to documents related to the contested decision]  <ul style="list-style-type: none"> <li>Order of 26 November 2018 dismissing the action as manifestly inadmissible; <a href="#">ECLI:EU:T:2018:871</a> (in Spanish)</li> </ul>	
93.	<a href="#">Case T-514/18</a> , <i>Del Valle Ruiz and Others v SRB</i> , <i>pending</i>  [ <a href="#">request for annulment</a> of the final decision of the <b>SRB Appeal Panel in Case 48/2017</b> , dated 19 June 2018, insofar as the latter held that the SRB was entitled to rely upon (i) Article 4(1)(a), fourth indent; (ii) Article 4(2), first indent; (iii) Article 4(2), third indent; and/or (iv) Article 4(3) of the <a href="#">Regulation No 1049/2001</a> (and/or the equivalent provisions under SRB Decision SRB/ES/2017/01 of 9 February 2017 on public access to SRB documents), in order to justify non-disclosure of the documents requested by the applicants in their confirmatory application dated 23 August 2017 concerning the adoption of a resolution scheme in respect of <i>Banco Popular Español</i> . The applicants rely on six pleas in law, by alleging that the <b>SRB Appeal Panel</b> infringed the fourth indent of Article 4(1)(a), the first indent of Article 4(2), Article 4(3), the third indent of Article 4(2), Article 4(6) and Article 11 of the <a href="#">Regulation No 1049/2001</a> ]  <ul style="list-style-type: none"> <li>Order of 12 October 2018 declaring that some of the applicants shall be removed, upon their request, from the list of applicants <a href="#">ECLI:EU:T:2018:688</a></li> </ul>	SRB Appeal Panel

94. [Case T-599/18](#), *Aeris Invest v SRB*, *closed*

[[request for annulment](#) of the SRB Decision of 14 September 2018 not to carry out an *ex-post* definitive valuation in the context of Decision SRB/EES/2017/08 of 7 June 2017 concerning a resolution scheme in respect of the institution *Banco Popular Español, SA* ('the contested decision'), on the basis of two pleas in law: (i) infringement of Article 20(11) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1). That plea is divided into three parts.

First part, based on the argument that the contested decision determines the possibility to write back creditors' claims or increase the value of the consideration paid without carrying out an *ex-post* definitive valuation.

Second part, based on the argument that the SRB did not verify that the information on which the valuation is based are as recent and complete as possible and, accordingly, any losses incurred on the assets of an entity may be fully taken into account.

Third part, based on infringement of the [Meroni case-law](#) in that the Commission should have given its consent to the SRB's decision not to ensure that an *ex-post* definitive valuation is carried out.

(ii) misuse of power which vitiates the contested decision and which a body of objective, relevant and consistent evidence demonstrates. In that regard, the applicant maintains that the contested decision does not follow the procedure of Article 20 of the [SRM Regulation](#) referred to above and that SRB's aim in adopting that decision is to hide the real situation of *Banco Popular Español, SA*]

- Order of 10 October 2019 dismissing the claims as inadmissible [ECLI:EU:T:2019:740](#)

**Appeal:** [Case C-874/19 P](#), *closed*

[The appellant contends that the Court should: set aside the order delivered by the General Court on 10 October 2019 and remit the case to the General Court for judgment. The appeal is based on two grounds: (i) the order under appeal infringes Article 20 of Regulation (EU) No 806/2014 and Article 47 of the of the [Charter](#) because the act contested before the General Court has binding legal effects in so far as the definitive valuation is an integral part of the resolution decision; (ii) the order infringes Article 17 of the Charter in that it permits interference with the appellant's right to property without any compensation; (iii) the order under appeal infringes Article 20(11)(b) of Regulation 806/2014 in that this provision. is applicable to the former shareholders since that provision lays down the obligation to make a decision on whether to 'write back creditors' claims' in the light of the definitive valuation; (iv) the order under appeal infringes Article 20(11) and (14) of Regulation 806/2014 and Article 41 of the Charter by not taking into account that the contested act has binding legal effects on the appellant since it prevents Aeris from having access to up-to-date, complete information on the accounting position of an entity in which Aeris had a 3.45% shareholding]

- Opinion AG Kokott of 8 July 2021 [ECLI:EU:C:2021:563](#) concluding that the appeals should be dismissed
- Judgment of 21 December 2021 dismissing the appeal; [ECLI:EU:C:2021:1040](#), available in 23 languages including English.

**95. [Case T-827/17](#), *Aeris Invest v ECB*, *closed***

[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](#)
- Judgment of 6 October 2021; [ECLI:EU:T:2021:660](#), dismissing the appeal except for the annulment of the ECB's Decision LS/MD/17/406 of 7 November 2017 in so far as it denies access to the result of the vote within the Governing Council of the ECB recorded in the minutes of its 447th meeting (available in 23 languages including in English)

**Appeal:** [C-782/21 P](#), *Aeris Invest v ECB*, *closed*

[Appeal brought on 15 December 2021 by Aeris Invest Sàrl against the judgment of the General Court (Third Chamber, Extended Composition) delivered on 6 October 2021, relying on [two grounds of appeal](#)].

**Judgment of 27 April 2023**, [ECLI:EU:C:2023:345](#), available in French and Spanish. The Court dismissed the appeal. It observed that “when deciding on a request for access to documents submitted to it on the basis of [ECB Public Access Decision 2004/258](#), the ECB is not required, contrary to what the applicant maintains, to take account of the fact that the applicant may need these documents for the purposes of preparing [...] an action for annulment.” Furthermore, the court noted that it was apparent from the wording of Article 4(1) of [ECB Public Access Decision 2004/258](#) that, with regard to the exceptions to the right of access referred to in that provision, the

refusal is mandatory where disclosure of a document to the public is likely to harm the interests protected by that provision.

96. [Case T-2/19](#), **Algebris (UK) and Anchorage Capital Group v SRB**, *closed*

[[request for annulment](#) of the SRB Decision to the effect that ex-post definitive valuations of *Banco Popular Español, SA* were not required pursuant to Article 20(11) of the [SRM Regulation](#). The applicant relies on four pleas in law: (i) error of law for breach of Article 20(11) and/or Article 20(12) of the [SRM Regulation](#); (ii) manifest error of assessment; (iii) error of law for breach of Article 20(11) and (12) of the [SRM Regulation](#); (iv) lack of motivation]

- Order of 10 October 2019 dismissing the claims as inadmissible [ECLI:EU:T:2019:741](#)

**Appeal:** [Case C-934/19 P](#), *closed*

[request to set aside paragraph 1 of the operative part of the order under appeal; request to set aside paragraph 2 of the operative part of the order under appeal and order the SRB to bear their own costs and to pay the costs of the appellants, relating to both the proceedings at first instance and to this appeal, and to grant the appellants standing to seek annulment of the contested decision contested before the General Court. The appeal is based on two grounds: (i) error of law by deciding that the appellants lack direct concern and by therefore misinterpreting Article 20(11), first subparagraph, of the [SRM Regulation](#) as well as a violation of the appellants' property rights in so far as the General Court decided that the applicants lack direct concern; and (ii) error of law in concluding that the appellants would not be entitled to compensation under Article 20(12)(a) of the [SRM Regulation](#), thus misinterpreting that provision and violating the principle of non-discrimination]

- Judgment of 21 December 2021 dismissing the appeal; [ECLI:EU:C:2021:1042](#), available in 23 languages including English.

97. [Case T-11/19](#), *Mutualidad de la Abogacía and Others v ECB and SRB*, *pending*

[[request for compensation](#) on the basis of two pleas in law: (i) illicit or negligent actions or omissions by the ECB, in particular, infringement of the principle of legitimate expectations because the ECB, as the institution responsible for conducting the Supervisory Review and Evaluation Process (SREP), created legitimate expectations on the part of the shareholders of *Banco Popular Español*, breach of the obligation of diligence and good administration on the part of the ECB, having failed to adopt the appropriate early intervention and/or recovery measures in respect of *Banco Popular Español* with a failure to fulfil obligations under the Guidelines on early intervention triggers (Article 27(4) of the [BRRD](#)); (ii) illicit or negligent actions by the SRB, in particular, infringement of Articles 7 and 13 of the [SRM Regulation](#) and Article 3(4) of the [BRRD](#), on account of the SRB's uncoordinated actions with the ECB, as well as the failure to update the Resolution Plan for *Banco Popular Español*, SAI, breach of the duty of confidentiality on the part of the SRB, with the related infringement of Article 339 TFEU and Article 88(1) of Regulation (EU) 806/2014 and infringement of Article 20 of the [SRM Regulation](#), on account of the SRB's refusal to undertake a final valuation of *Banco Popular Español*, and the related breach of the obligation of diligence and good administration]

98. [Case T-16/19](#), *Activos e Inversiones Monterroso v SRB*, *pending*

[[request for annulment](#) of the SRB decision Single Resolution Board of 31 October 2018 and the appropriate legal steps having been taken, give judgment annulling the decision of 31 October 2018 and upholding the form of order sought, granting access to all documents included in the relevant administrative file. In support of the action, the applicant relies on infringement of Article 41 of the [Charter](#) and of Article 4 of the [Regulation No 1049/2001](#) arguing that protection of the public interest as regards the economic or monetary policy of the European Union or a Member State, protection of the commercial interests of a natural or legal person, protection of privacy and the integrity of the individual, protection of the purpose of investigations, or the opposition of the originator of the information, are not applicable as exceptions to the disclosure of documents]

99. [Case T-512/19](#), *Del Valle Ruiz and Others v SRB*, *closed*

[[request for annulment](#) of the SRB Decision (SRB/CM01/ARES (2018) 3664981) of 20 May 2019 agreeing not to draw up the definitive valuation report provided for in Article 20.11 of Regulation (EU) No 806/2014 in the context of the resolution of *Banco Popular* and, consequently, order the Single Resolution Board to draw up that definitive valuation report in accordance with the applicable legislation and order the defendant and the parties intervening in full or partial support of the form of order sought by it to pay the costs.

In support of their action, the applicants invoke five pleas in law.

First plea, alleging failure to state or failure sufficiently to state the reasons on which the measure is based and, consequently, infringement of Articles 41 and 47 of the [Charter](#) of Fundamental Rights of the European Union ('the [Charter](#)').

Second plea, alleging infringement of Article 20.11 of the [SRM Regulation](#),<sup>1</sup> in so far as the defendant states that the definitive valuation report on *Banco Popular* provided for in that provision will not be drawn up.

Third plea, alleging infringement of the principle of sound administration provided for under Article 41 of the [Charter](#), in so far as the Single Resolution Board deviated from the opinion of an independent expert on the need to draw up the definitive valuation report without substantiating its decision with any scientific or economic arguments.

Fourth plea, alleging infringement of the right to an effective legal remedy and rights of defence and, consequently, infringement of Article 2 TFEU, Article 47 of the [Charter](#) and Article 24 of the Spanish Constitution.

Fifth plea, alleging infringement of recital 24 of the [SRM Regulation](#) and failure to comply with the [Meroni case-law](#), in so far as, first, the defendant has not been delegated the power to decide at its discretion whether or not it is appropriate to issue the definitive valuation report, and, secondly, and in any event, a decision such as the decision contested in the present action should have been overseen by the European Commission]

- [Order](#) of 1 June 2022 dismissing the action as inadmissible; see in detail in [French](#) and [Spanish](#)

100. [Case T-528/19](#), *Arranz de Miguel and Others v ECB and SRB*, *pending*

[[request](#) that the ECB and the SRB to pay compensation for the damage caused. The pleas in law and main arguments are similar to those raised in [Case T-659/17](#), *Vallina Fonseca v SRB*]



101. [Case T-340/20](#), **Galván Fernández-Guillén v SRB**, *closed*

[[request to annul](#) the SRB Decision of 17 March 2020 determining whether compensation needs to be granted to the shareholders and creditors of *Banco Popular Español*, SA. In support of his action, the applicant relies on four pleas in law, alleging: (i) the infringement of the fundamental right to private property, in that *Banco Popular* had, at the time of the resolution, a positive net worth, which did not justify the applicant being deprived of his shares without compensation; (ii)

the infringement of the right to property, in that no clear valuation criteria were applied in granting the resolution of *Banco Popular*, since the new criteria approved by Commission Delegated Regulation (EU) 2018/344 1 which only came into force on 29 March 2018 — that is, eight months after the resolution of *Banco Popular* — were applied retroactively; (iii) a lack of impartiality on the part of Deloitte in carrying out Valuation 3, on which Decision SRB/EES/2020/52 relied exclusively, given that the same auditing company carried out Provisional Valuation 2; (iv) the infringement of the rights of the defence, in that the SRB continues to keep certain information confidential and hidden from the shareholders and creditors of *Banco Popular*, on the pretext that ‘the disclosure thereof may infringe the Board’s rights of defence in the ongoing litigation]

- Judgment of 22 November 2023; [ECLI:EU:T:2023:732](#), dismissing the action, available in Spanish and French.

102. [Case T-330/20](#), **ACMO and Others v SRB**, *closed*

[[request to partially annul](#) the SRB Decision of 17 March 2020 determining whether compensation needs to be granted to the shareholders and creditors in respect of which the resolution actions concerning *Banco Popular Español*, SA (SRB/EES/2020/52) and in the alternative to annul the contested decision in its entirety. In support of the action, the applicants rely on three pleas in law: (i) manifest error of assessment and errors of law; (ii) the SRB’s decision to appoint Deloitte to undertake the valuation was vitiated by manifest errors of assessment and/or errors of law in that Deloitte did not satisfy the fundamental criterion of independence under Article 20(16) of Regulation (EU) 806/2014; (iii) the SRB improperly delegated its decision-making powers under Regulation (EU) 806/2014 to Deloitte in violation of the principle laid down by Union case law in the seminal [Case 9/56, Meroni](#)]

- Judgment of 22 November 2023; [ECLI:EU:T:2023:733](#), dismissing the action, available in 17 languages, including English

<p>103. <a href="#">Case T-294/22</a>, <i>Mariño Pais and Others v Commission and SRB</i>, <i>pending</i></p> <p>[<a href="#">request for compensation of damages</a> against the SRB and European Commission in relation to the resolution of <i>Banco Popular Español</i>, SA In support of the action the applicant relies on four pleas in law, including a breach of the duty of confidentiality, the principles of due diligence and of sound administration and the <i>nemo auditur propiam turpitudinem allegans</i> principle].</p>	
<p>104. <a href="#">Case T-302/20</a>, <i>Del Valle Ruíz and Others v SRB</i>, <i>closed</i></p> <p>[<a href="#">request</a> to annul the SRB Decision determining whether compensation needs to be granted to the shareholders and creditors of Banco Popular Español SA, relying on six pleas in law, including that both the <a href="#">SRM Regulation</a> as well as the <a href="#">Charter</a> have been infringed].</p> <ul style="list-style-type: none"> <li>• Joint Hearing with cases T-303/20, T-307/20 on Thursday 7 September 2022</li> <li>• Judgment of 22 November 2023; <a href="#">ECLI:EU:T:2023:735</a>, dismissing the action, available in 17 languages, not yet in English</li> </ul>	
<p>105. <a href="#">Case T-303/20</a>, <i>Arias Mosquera and Others v SRB</i>, <i>closed</i></p> <p>[<a href="#">request</a> to annul the SRB Decision determining whether compensation needs to be granted to the shareholders and creditors of Banco Popular Español SA; the pleas in law and main arguments are those relied on in <a href="#">Case T-302/20</a>].</p> <ul style="list-style-type: none"> <li>• Joint Hearing with cases T-302/20, T-307/20 on Thursday 7 September 2022</li> <li>• Judgment of 22 November 2023; <a href="#">ECLI:EU:T:2023:735</a>, dismissing the action, available in 17 languages, not yet in English</li> </ul>	
<p>106. <a href="#">Case T-304/20</a>, <i>Molina Fernández v SRB</i>, <i>closed</i></p> <p>[<a href="#">request</a> to annul the SRB Decision determining whether compensation needs to be granted to the shareholders and creditors in respect of which the resolution actions concerning Banco Popular Español SA; the case relies on three pleas in law which revolve around the lawfulness and correctness of the Valuation 3 Report].</p> <ul style="list-style-type: none"> <li>• Hearing on Thursday 8 September 2022</li> <li>• Judgment of 22 November 2023; <a href="#">ECLI:EU:T:2023:734</a>, dismissing the action (the Court's abstract in English <a href="#">here</a>), available in 18 languages, not yet in English</li> </ul>	

<p>107. <a href="#">Case T-307/20</a>, <i>Calatrava Real State 2015 v SRB</i>, <i>closed</i></p> <p>[request to annul the SRB Decision determining whether compensation needs to be granted to the shareholders and creditors of <i>Banco Popular Español</i> SA; the pleas in law and main arguments are those relied on in <a href="#">Case T-302/20</a>].</p> <ul style="list-style-type: none"> <li>Joint Hearing with cases T-302/20, T-303/20 on Thursday 7 September 2022</li> <li>Judgment of 22 November 2023; <a href="#">ECLI:EU:T:2023:735</a>, dismissing the action, available in 17 languages, not yet in English</li> </ul>	
<p>108. <a href="#">Case T-474/22</a>, <i>Imasa, Ingeniería y Proyectos v Commission and Others</i>, <i>pending</i></p> <p>[request to declare that the EU has incurred non-contractual liability for the unlawful and negligent conduct of the Commission, the SRB and the ECB in respect of the resolution of <i>Banco Popular Español</i>, SA; the applicants rely on three pleas in law, including that the SRB acted unlawfully by making statements leading to the immediate collapse in the share price; that the SRB and the Commission acted negligently by adopting and approving the resolution; and that the ECB failed to exercise care in monitoring, supervising, forecasting, regulating and establishing the necessary mechanisms to ensure the liquidity of the bank].</p>	
<p>109. <a href="#">Case T-475/22</a>, <i>Fundación Pedro Barrié de la Maza, Conde de Fenosa v Commission and Others</i>, <i>pending</i></p> <p>[request to declare that the EU has incurred non-contractual liability for the unlawful and negligent conduct of the Commission, the SRB and the ECB in respect of the resolution of <i>Banco Popular Español</i>, SA, based on three pleas corresponding to <a href="#">Case T-474/22</a>].</p>	
<p>And separate proceedings concerning the resolution of <i>Banco Popular Español</i> between the SRB and the EDPS:</p>	
<p>110. Case <a href="#">T-557/20</a>, <i>Single Resolution Board (SRB) v. European Data Protection Supervisor (EDPS)</i>, <i>closed</i></p> <p>[request for annulment of the revised decision of the EDPS of 24 November 2020 adopted following the SRB's request for review of the decision of the EDPS of 24 June 2020 concerning five complaints submitted by several complainants ("the revised decision") and, second, a declaration that the decision of the EDPS of 24 June 2020 ("the original decision") is illegal]</p> <p>Judgment of the General Court from 26 April 2023 (<a href="#">ECLI:EU:T:2023:219</a>), annulling the revised decision of the EDPS of 24 November 2020. The case concerned processing of data collected by the SRB in the context of a resolution scheme in respect of <i>Banco Popular Español</i>, SA.</p>	

**Appeal**, Case [C-413/23 P](#), *pending*

### 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). On 12 June 2018 the [FCMC](#) submitted a draft decision about withdrawal of the bank's authorisation of a credit institution to the ECB – that was the day when the FCMC approved the voluntary liquidation of the bank and the bank became a joint stock company in liquidation (see, [winding-up notice](#)). On 11 July 2018 the ECB withdrew the authorisation of the ABLV Bank AS as a credit institution. 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.	<p><a href="#">Case T-280/18</a>, <i>ABLV Bank v SRB</i>, <i>closed</i></p> <p>[request for annulment of the SRB Decisions of 23 February 2018 (SRB/EES/2018/09 and SRB/EES/2018/10) not to adopt resolution schemes in respect of ABLV Bank AS and ABLV Bank Luxembourg SA.</p> <p>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].</p> <ul style="list-style-type: none"> <li>Judgment of 6 July 2022 dismissing the action <a href="#">ECLI:EU:T:2022:429</a></li> </ul> <p><b>Appeal:</b> <a href="#">Case C-602/22 P</a>, <i>pending</i></p> <p>[<i>ABLV Bank AS</i> requests the Court of Justice to set aside the judgment and declare void the SRB decisions with respect to the appellant and its Luxembourg subsidiary; <i>in event</i> refer the case back to the General Court. The appeal is based on four grounds, including that the General Court incorrectly interpreted and applied Article 18 of the <a href="#">SRM Regulation</a>, committed a number of legal and procedural errors as well as factual distortions].</p>	

2. [Case T-281/18](#), *ABLV Bank v ECB*, *closed*

[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*)]

- Order of 6 May 2019 dismissing the action as inadmissible [ECLI:EU:T:2019:296](#)

**Appeal:** [Case C-551/19 P](#), *closed*

[*ABLV Bank AS* requests the Court of Justice to set aside the order of the General Court of 6 May 2019, declare that the application for annulment is admissible and refer the case back to the General Court for it to determine the action for annulment and order the ECB to pay the appellant's costs and the costs of the appeal. The appeal is based on two grounds: (i) the General Court erred in law and violated Article 263 TFEU by failing to base its order on the decision which the ECB actually adopted and (ii) the order under appeal is based on an incorrect interpretation of Article 18(1) of the [SSM Regulation](#)]

- Opinion of AG Sanchez-Bordona of 14 January 2021 proposing to dismiss the appeals on the ground that they are in part inadmissible and in part unfounded [ECLI:EU:C:2021:16](#)
- Judgment of 6 May 2021 dismissing the appeals [ECLI:EU:C:2021:369](#)
- [Download Summary](#)



3. [Case T-282/18](#), *Bernis and Others v SRB*, *closed*

[request for annulment SRB decisions of 23 February 2018 by which it decided not to adopt resolution schemes in respect of *ABLV Bank AS* and its subsidiary, *ABLV Bank Luxembourg SA*. 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]

- Order of the General Court of 14 May 2020 declaring the action by ABLV's shareholders inadmissible as they are not 'directly concerned' by the SRB's decision that resolution was not in the public interest; [ECLI:EU:T:2020:209](#). The core paragraphs in this Order read as follows:

40 However, the contested decisions do not directly affect the legal position of shareholders such as the applicants. The right of shareholders to receive dividends and to participate in the management of ABLV Bank and of ABLV Luxembourg, as companies constituted under Latvian and Luxembourg law respectively, has not been affected by the contested decisions (see, by analogy, judgment of 5 November 2019, *ECB and Others v Trasta Komerbanka and Others*, C 663/17 P, C 665/17 P and C 669/17 P, EU:C:2019:923, paragraph 110).

41 On the one hand, that conclusion is substantiated by the considerations of the Court of Justice in its judgment of 5 November 2019, *ECB and Others v Trasta Komerbanka and Others* (C 663/17 P, C 665/17 P and C 669/17 P, EU:C:2019:923), which can be transposed by analogy to the present case. It follows, in particular, from paragraph 111 of that judgment that the negative effect on shareholders of the withdrawal of a credit institution's licence is economic and not legal in nature. Indeed, although such a credit institution is no longer in a position to continue its activity following that withdrawal and, in fact, to distribute dividends, the right of shareholders to receive dividends and to participate in management remains unchanged.

42 On the other hand, the contested decisions provide only that ABLV Bank and ABLV Luxembourg are not subject to resolution. Unlike the situation in the case which gave rise to the judgment of 5 November 2019, *ECB and Others v Trasta Komerbanka and Others* (C 663/17 P, C 665/17 P and C 669/17 P, EU:C:2019:923), the contested decisions have neither the object nor the effect of withdrawing from those banks their licences authorising them to carry on the business of credit institutions. In those circumstances, it is all the more the case that the contested decisions do not affect the legal position of the applicant shareholders and are such as to have only economic effects on them.

43 In the second place, the contested decisions give the national authorities discretion as regards the adoption of measures likely to affect the rights of the shareholders of ABLV Bank and ABLV Luxembourg. Although it is true that the winding up of those two credit institutions is such as to affect the applicants' rights, those windings up do not, however, constitute an implementation of the contested decisions which is 'purely automatic and resulting from the EU rules alone', within the meaning of the case-law cited in paragraph 36 above. Thus, the relevant EU rules, in this case the [SRM Regulation](#), make no provision, in circumstances such as those of the present case, for the winding up of a credit institution in respect of which the SRB has decided not to adopt a resolution scheme on the ground that the conditions set out in the first subparagraph of Article 18(1) of that regulation are not satisfied (see, by analogy, judgment of 5 November 2019, *ECB and Others v Trasta Komerbanka and Others*, C 663/17 P, C 665/17 P and C 669/17 P, EU:C:2019:923, paragraph 114). Article 2 of the contested decisions merely provides that the CFPC and the FSSB respectively are to implement those decisions and ensure that the measures they take comply with them

44 In the present case, it must be pointed out that ABLV Bank was voluntarily wound up by decision of the general meeting of shareholders of that credit institution. As regards ABLV Luxembourg, the tribunal d'arrondissement de Luxembourg (District Court, Luxembourg) initially rejected the Luxembourg NRA's application for the dissolution."

**Appeal:** [Case C-364/20 P](#), *Bernis and Others v SRB*, *closed*

[request to set aside the order of the GC by which it dismissed the action for annulment of the decisions of the SRB of 23 February 2018, by which the SRB decided not to adopt resolution schemes in respect of ABLV Bank AS and its subsidiary, ABLV Bank Luxembourg SA; the applicants rely on 13 pleas in law]

- Judgment of 24 February 2022 dismissing the appeal, [ECLI:EU:C:2022:115](#) (available in English and French)

4. [Case T-283/18](#), *Bernis and Others v ECB*, *closed*

[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]

- Order of 6 May 2019 dismissing the action as inadmissible [ECLI:EU:T:2019:295](#)

**Appeal:** [Case C-552/19 P](#), *pending*

[Ernest Bernis, Olegs Filis, *OF Holding SIA*, *Cassandra Holding Company SIA* request the Court of Justice to set aside the order of the General Court of 6 May 2019, to declare that the application for annulment is admissible, to refer the case back to the General Court for it to determine the action for annulment and to order the ECB to pay the appellants' costs and the costs of the appeal. The appeal is based on the same grounds as in [Case C-551/19 P](#)]

5. Case [T-71/23](#): Action brought on 12 February 2023, *ABLV Bank v ECB and SRB*, *pending*

[requesting the Court to declare that the defendants are jointly and severally liable for the damage caused to the applicant as a result of the discontinuation of its business and that of its Luxembourg subsidiary]

6. Case [T-430/23](#), *ABLV Bank v SRB*, *pending*

[request to annul the SRB's decision dated 30 September 2022 with respect to the applicant's request for access to documents (the 'original decision'), the decision of the [SRB's Appeal Panel dated 10 May 2023](#), to the extent that it contains adverse findings for the applicant, and the SRB's negative reply pursuant to Article 8(3) of [Regulation 1049/2001](#), fifteen working days after the Appeal Panel decision, based on seven pleas in law]



### 3.4 Other actions against the SRB

No.	Case
1.	<p><a href="#">Case T-732/19</a>, <b>PNB Banka and Others v SRB</b>, <i>pending</i></p> <p>[request for annulment of the SRB's decision of 15 August 2019 not to adopt a resolution scheme in respect of <i>AS PNB Banka</i>. In support of the action, the applicant relies on 14 pleas in law including lack of competence, infringement of essential procedural requirements, breach of the principle of proportionality, duty to state reasons, principle of equal treatment, principles of legal certainty and legitimate expectations]</p>
2.	<p><a href="#">Case T-71/22</a>, <b>BNP Paribas v SRB</b>, <i>pending</i></p> <p>[requesting the annulment (1) of the Joint Decision on the Group resolution plan and resolvability assessment for BNP Paribas and its subsidiaries of 4 November 2021 (Reference No. RC/JD/2020/52) as well as of (2) the Joint Decision determining the minimum requirement for own funds and eligible liabilities (MREL) for BNP Paribas and certain of its affiliates of 4 November 2021 (Reference No. RC/JD/2020/53). Additionally, it is requested to order the SRB to produce the full resolution plan approved under the Resolution decision and to declare that the contested provisions of the MREL Policy must be disapplied.</p> <p>Concerning the Resolution decision, BNP Paribas relies on <a href="#">five pleas in law</a>. In particular, it is claimed that the SRB has breached provisions of the <a href="#">SRM Regulation</a>, <a href="#">Delegated Regulation 2016/1075</a> and the principle of proportionality, as well as has committed a manifest error of assessment and violated the principle of good administration by adopting a uniform bail-in strategy for important institutions, disregarding actual resolution cases. Moreover, BNP Paribas claims that the SRB exceeded its powers under the <a href="#">SRM Regulation</a> and that the Board failed to justify its choice of resolution strategy.</p> <p>Concerning the MREL decision, BNP Paribas relies on <a href="#">eight pleas in law</a>. It is argued that the decision is linked to the Resolution decision and would no longer stand if the latter is annulled. Furthermore, BNP Paribas argues that the SRB has committed an error of law by applying the <a href="#">SRM Regulation</a> and inter alia failed to take into account the banking group analysis in its MREL determination. BNP Paribas then claims that the SRB has failed to carry out a full assessment of all the relevant elements of the MREL calculation and has breached the principle of good administration. Finally, the SRB failed to apply several provisions of its own MREL policy, set an amount of MREL that is disproportionate in light of the resolution objectives and failed to state reasons for its calculation.]</p>
3.	<p><a href="#">Case T-450/22</a>, <b>Sberbank Europe [now: MeSoFa] v SRB</b>, <i>pending</i></p> <p>[request to declare void pursuant to Art. 264 TFEU the SRB's No Resolution-decision dated 1 March 2022, based on seven pleas in law, i.a. that the SRB exceeded its competence by adopting a decision with respect to the applicant instead of simply refraining from any action in accordance with its finding that the conditions of Article 18 of the <a href="#">SRM Regulation</a> were not met].</p>
4.	<p><a href="#">Case T-523/22</a>, <b>MeSoFa Vermögensverwaltungs AG (initially Sberbank Europe) v Council and Others</b>, <i>closed</i></p> <p>[requesting to declare void pursuant to Art. 264 TFEU the SRB's decision of 1 March 2022 with respect to the Slovenian subsidiary of the applicant, including, if applicable, the Commission's and the Council's approval of the contested decision; the request is based on nine pleas in law, i.a. that the SRB exceeded its competence by adopting a decision with respect to the applicant].</p> <ul style="list-style-type: none"> <li>• <a href="#">Order of the General Court of 8 September</a> dismissing the action as inadmissible in so far as it is directed against the Council of the European Union (since the</li> </ul>

	<p>situations set out in the third subparagraph of Article 18(7) of the <a href="#">SRM Regulation</a> were not present in this case: the Council was not involved in the resolution)</p>
<p>5. <a href="#">Case T-524/22</a>, <i>MeSoFa Vermögensverwaltungs AG (initially Sberbank Europe) v Council and Others</i>, <i>closed</i></p> <p>[request to declare void pursuant to Art. 264 TFEU the SRB's decision of 1 March 2022 (SRB/EES/2022/21) with respect to the Croatian subsidiary of the applicant, including, if applicable, the Commission's and the Council's approval of such contested decision; the request is based on nine pleas in law, i.a. that the contested decision presupposes an ability of the SRB to make binding determinations as to the insolvency status of the parent entity].</p> <ul style="list-style-type: none"> <li>• <a href="#">Order of the General Court</a> of 8 September dismissing the action as inadmissible in so far as it is directed against the Council of the European Union (since the situations set out in the third subparagraph of Article 18(7) of the <a href="#">SRM Regulation</a> were not present in this case: the Council was not involved in the resolution)</li> </ul>	
<p>6. <a href="#">Case T-525/22</a>, <i>Sberbank of Russia v Commission and SRB</i>, <i>closed</i></p> <p>[request to annul the SRB's decision adopting a resolution scheme in respect of the Croatian subsidiary from 1 March 2022, together with the Valuation Report 1 from 27 February 2022 and the Valuation from 27 or 28 February 2022 as well as the annulment of the European <a href="#">Commission decision</a> from 1 March 2022 endorsing the resolution scheme; the applicant relies on three pleas in law, including an infringement of essential procedural requirements; an infringement of the obligation to state reasons, of the right to effective judicial protection and of Article 47 of the <a href="#">Charter</a>; a manifest error of assessment in the overall evaluation of the conditions related to the resolution scheme and breach of the <a href="#">SRM Regulation</a> as well as infringement of the fundamental right to property and of the freedom to conduct a business]</p> <ul style="list-style-type: none"> <li>• Order of the General Court of 10 October 2023 dismissing the action as inadmissible; <a href="#">ECLI:EU:T:2023:633</a>, available in English and French.</li> </ul> <p><b>Appeal</b> lodged on 20 December 2023: <a href="#">Case C-791/23 P</a>, <i>Sberbank v Commission and SRB</i>, <i>pending</i></p>	
<p>7. <a href="#">Case T-526/22</a>, <i>Sberbank of Russia v Commission and SRB</i>, <i>closed</i></p> <p>[request to annul the SRB's decision adopting a resolution scheme in respect of the Slovenian subsidiary from 1 March 2022, together with the Valuation Report 1 from 27 February 2022 and the Valuation from 27 or 28 February 2022 as well as the annulment of the European <a href="#">Commission decision</a> from 1 March 2022 endorsing the resolution scheme; the pleas are the same as in <a href="#">Case T-525/22</a>]</p> <ul style="list-style-type: none"> <li>• Order of the General Court of 10 October 2023 dismissing the action as inadmissible; <a href="#">ECLI:EU:T:2023:628</a>, available in English and French.</li> </ul> <p><b>Appeal</b> lodged on 20 December 2023: <a href="#">Case C-792/23 P</a>, <i>Sberbank v Commission and SRB</i>, <i>pending</i></p>	
<p>8. <a href="#">Case T-527/22</a>, <i>Sberbank of Russia v SRB</i>, <i>closed</i></p> <p>[request to annul SRB's decision concerning the assessment of the conditions for resolution in respect of Sberbank Europe AG from 1 March 2022, together with the Valuation Report 1 from 27 February 2022; the case is based on three pleas in law similar to <a href="#">Case T-525/22</a>].</p> <ul style="list-style-type: none"> <li>• Order of the General Court of 10 October 2023 dismissing the action as inadmissible; <a href="#">ECLI:EU:T:2023:629</a>, available in English and French.</li> </ul>	

<b>Appeal</b> lodged on 20 December 2023: <a href="#">Case C-793/23 P</a> , <b>Sberbank v Commission and SRB</b> , <i>pending</i>	
<b>9.</b>	<a href="#">Case T-540/22</a> , <b>France v SRB</b> , <i>pending</i> [request to annul the <a href="#">SRB decision 3/2021</a> of the <b>SRB Appeal Panel</b> of 8 June 2022 by which it upheld the SRB's decision not to grant to the banking group concerned the exemption from the MREL applied on an individual basis; France relies on three pleas in law, including that the Appeal Panel erred in finding that the SRB correctly interpreted and applied Article 12h of the <a href="#">SRM Regulation</a> and that it remained within the limits of its discretion; that it erred in finding that the SRB had not breached the principle of legal certainty as well as that the SRB had satisfied its obligation to state reasons].
<b>10.</b>	<a href="#">Case T-571/22</a> , <b>MeSoFa Vermögensverwaltungs AG (initially Sberbank Europe v SRB)</b> , <i>pending</i> [request to annul the SRB's decision dated 5 July 2022 (SRB/EES/2022/37) by which the SRB determined the expenses in connection with the resolution of the Croatian subsidiary of the applicant and instructed the Croatian National Bank to deduct such expenses from the purchase price payable to the applicant, based on two pleas in law: (i) that the contested decision is procedurally and substantively vitiated and (ii) that the underlying resolution decision is procedurally and substantively illegal and is currently being reviewed in case T-524/22].
<b>11.</b>	<a href="#">Case T-572/22</a> , <b>Sberbank Europe v SRB</b> [now: <b>MeSoFa v SRB</b> ], <i>pending</i> [request to annul the SRB's decision dated 5 July 2022 (SRB/EES/2022/36) by which the SRB determined the expenses in connection with the resolution of the Slovenian subsidiary of the applicant and instructed the Bank of Slovenia to deduct such expenses from the purchase price payable to the applicant, based on two pleas in law corresponding to the above <a href="#">Case T-571/22</a> ].

**4. Preliminary ruling proceedings and direct actions on EU Banking Law (CRR, CRD IV, SSM Regulation, BRRD, FICOD, DGS Directive)**

No.	Case
<b>1.</b>	<a href="#">Case C-15/16</a> , <b>Bundesanstalt für Finanzdienstleistungsaufsicht v Ewald Baumeister</b> , <i>closed</i> [the <i>Bundesverwaltungsgericht</i> (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 ( <a href="#">MiFID I</a> ) asking 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, *Towards a single standard of professional secrecy for supervisory authorities – A reform proposal*, (2019) 44 E.L. Rev. 295-318; [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3346946](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3346946).

2. [Case C-571/16](#), **Nikolay Kantarev v Balgarska Narodna Banka**, *closed*

[reference for a preliminary ruling from the *Administrativen sad – Varna* (Varna Administrative Court, Bulgaria) on the interpretation of the 1994 Directive on Deposit Guarantee Schemes (DGS), relevant for the current DGS Directive (2014/49) and of interest for the immediacy of the pay-out once an even temporary unavailability of deposits has been established, which should not depend on an ulterior insolvency or withdrawal of the credit institution's license. Considerations on Francovich liability for incorrect implementation of EU law and on the validity of national law limitations on supervisory liability in case of such State liability for defective transposition or application of EU law.]

- Opinion of AG Kokott of 7 June 2018; [ECLI:EU:C:2018:41](#)
- Judgment of 4 October 2018; [ECLI:EU:C:2018:807](#)

[Summary by René Smits](#)

3. [Joined Cases C-688/15 and C-109/16](#), **Agnieška Anisimovienė and Others v bankas „Snoras“ AB, in liquidation and Others**, *closed*

[reference from the *Lietuvos Aukščiausiasis Teismas* (Supreme Court, Lithuania) on the interpretation of the [1994 Directive on Deposit Guarantee Schemes](#) (DGS), repealed by DGS Directive 2014/49, and the [1997 Directive on Investor Compensation Schemes](#). The court ruled that claims relating to funds held by individuals with a credit institution and intended to be used for the subscription of future transferable securities to be issued by the credit institution are covered by both the investor compensation scheme and the deposit guarantee scheme if the securities were not issued due to the credit institution's insolvency. Furthermore, individuals can rely on the DGS Directive before national courts in order to claim compensation from a public undertaking in a MS that is entrusted with the deposit guarantee schemes.]

- Opinion of AG Sánchez-Bordona of 15 June 2017, [ECLI:EU:C:2017:475](#)
- Judgment of 22 March 2018, [ECLI:EU:C:2018:209](#)

4. [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, *Towards a single standard of professional secrecy for supervisory authorities – A reform proposal*, (2019) 44 E.L. Rev. (2019) 295-318; [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3346946](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3346946).

5. [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 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](#)

6. [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](#)

7. [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 AG Campos Sánchez-Bordona of 27 June 2018 [ECLI:EU:C:2018:502](#)
- Judgment of 19 December 2018 [ECLI:EU:C:2018:1023](#)

[Summary by Federico Della Negra](#)

8. [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.e. 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 Court's registry due to the withdrawal of the request for a preliminary ruling [ECLI:EU:C:2016:945](#)

9. [Case C-414/18](#), *Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia*, *closed*

[reference from the [Tribunale amministrativo regionale per il Lazio \(TAR Lazio\)](#) (Regional Administrative Court, Italy) asking whether: (i) Article 5(1), in particular subparagraphs (a) and (f) of the [Delegated Regulation 2015/63](#), interpreted in the light of the principles referred to in that regulation, in [BRRD](#), [SRM Regulation](#) and Article 120 of the TFEU, the fundamental rules of equal treatment, non-discrimination and proportionality laid down in Article 21 of the [Charter](#), and the prohibition on levying double contributions, preclude, for the purpose of calculating the contributions referred to in Article 103(2) of the [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 of the [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. See, in more details, on this reference for preliminary ruling, n. 3 of the section on the judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts, below]

- Opinion AG Campos Sánchez-Bordona of 9 July 2019 [ECLI:EU:C:2019:574](#)
- Judgment of 3 December 2019 [ECLI:EU:C:2019:1036](#)

[Article 103(2) of the [BRRD](#) and Article 5(1)(a) and (f) the [Delegated Regulation 2015/63](#) must be interpreted as meaning that liabilities that arise from transactions between a second-tier bank and the members of a grouping that comprises it and the cooperative banks to which it supplies various services, but where it does not control those banks, and that do not match loans granted on a non-competitive, not for profit basis, in order to promote the public policy objectives of central or regional governments in a Member State are not excluded from the calculation of the contributions to a national resolution fund that are the subject of Article 103(2) of the [BRRD](#). The CJEU also specified that it is not for the referring court to assess, in the main proceedings, the compatibility of decisions of the Bank of Italy with the rules governing the calculation of the *ex-ante* contributions to the SRF, since that court cannot either give a ruling on acts of the Bank of Italy preparatory to that calculation, nor impede the raising, from Iccrea Banca, of a contribution corresponding to the amount determined by acts of the Board which have not been found to be invalid. Therefore, the CJEU held that the aspects of the question referred concerning the calculation of the *ex-ante* contributions to the SRF are inadmissible]

10. [Case C-255/18](#), *State Street Bank International GmbH v Banca d'Italia*, *closed*

[reference from [Tribunale amministrativo regionale per il Lazio \(TAR Lazio\)](#) 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]

- Opinion AG Campos Sánchez-Bordona of 26 June 2019 [ECLI:EU:C:2019:539](#)
- Judgment of 14 November 2019 [ECLI:EU:C:2019:967](#)

[(i) The concept of ‘change of status’, within the meaning of Article 12(2) of the [Delegated Regulation 2015/63](#), must be interpreted as including a transaction, such as that at issue in the main proceedings, by which an institution ceases, in the course of a year, to be under the supervision of the national resolution authority following a cross-border merger through acquisition by its parent company, and as a result that transaction has no impact on the institution’s obligation to pay in full the ordinary contributions due for the contribution year in question;

(ii) Article 12(2) of [Delegated Regulation 2015/63](#) must be interpreted as applying to a situation in which a cross-border merger by acquisition of an institution located in one Member State, by its parent company established in another Member State, and the resulting dissolution of the acquired institution, took place in 2015, at a time when the first Member State had not yet formally established either the national resolution authority or the national fund and the contributions had not yet been calculated;

(iii) Article 104 of the [BRRD](#) must be interpreted as meaning that an institution located in one Member State, which merged through acquisition with a parent company established in another Member State on a date prior to the establishment of an extraordinary contribution by the first Member State’s national resolution authority, is not required to pay that contribution]

**11. [Case C-911/19, Fédération bancaire française \(FBF\) v Autorité de contrôle prudentiel et de résolution \(ACPR\)](#), *closed***

[[reference for a preliminary ruling](#) by the *Conseil d’État* (Council of State) ([decision 4 december 2019, n° 415550](#)) in a dispute brought by the French Banking Federation (*Fédération bancaire française (FBF)*) against the National Competent Authority (*Autorité de contrôle prudentiel et de résolution (ACPR)*). The FBF initiated an action for the annulment for excess of power (*excès de pouvoir*) of the ACPR’s notice of 8 September 2017 that it will comply with the EBA Guidelines on product oversight and governance arrangements for retail banking products of 22 March 2016 ([EBA/GL/2015/18](#)). The *Conseil d’État* decided to stay the proceedings and referred three questions for a preliminary ruling: (i) whether the guidelines adopted by the European Supervisory Authorities may



be subject to an action of annulment under Article 263 of the TFEU and, in the affirmative, whether a professional federation is entitled to challenge the validity of these guidelines; (ii) if either of the previous questions is answered in the negative, whether the guidelines adopted by the European Supervisory Authorities may be subject to a reference for a preliminary ruling under Article 267 of the TFEU; in the affirmative, whether a professional federation is entitled to challenge, by way of exception, the validity of guidelines addressed to its members and that are not of its individual and direct concern; (iii) if the *Fédération bancaire française* is entitled to challenge, by means of a plea of invalidity, the guidelines [EBA/GL/2015/18](#), whether the EBA exceeded the competences conferred on it by the [Regulation \(EU\) No 1093/2010](#)].

- Opinion AG Bobek of 15 April 2021 concluding that the Guidelines [EBA/GL/2015/18](#) should be declared invalid because their subject matter and content falls outside the scope of the legislative acts referred to in Article 1(2) of Regulation (EU) No 1093/2010 [ECLI:EU:C:2021:294](#)
- Judgment of 15 July 2021 deciding that the Guidelines [EBA/GL/2015/18](#) are valid [ECLI:EU:C:2021:599](#). See for a comment <https://eulawlive.com/op-ed-upholding-romano-eroding-meroni-the-ruling-of-the-court-of-justice-in-fbf-by-nathan-de-arriba-sellier/>

**12. [Case C-686/18](#), *Adusbef and Others v Banca d'Italia and Others*, closed**

[reference from the *Consiglio di Stato* (Council of State, Italy) asking whether: (i) Article 29 of the [CRR](#), Article 10 of [Commission Delegated Regulation \(EU\) No 241/2014](#) and Articles 16 and 17 of the [Charter](#), with reference to Article 6(4) of the [SSM Regulation](#) preclude a national provision such as that introduced by Article 1 of the [Decree-Law No 3/2015](#), converted, with amendments, by [Law No 33/2015](#) (and currently also Article 1(15) of [Legislative Decree No 72/2015](#), which has replaced Article 28(2-ter) of the [Italian consolidated law on banking](#), substantially reproducing the text of Article 1(1)(a) of [Decree-Law No 3/2015](#), as converted, with amendments that are not relevant to the present case), which imposes an asset threshold above which a people's bank (*banca popolare*) must be converted into a company limited by shares, setting that limit at EUR 8 billion of assets and whether the abovementioned unified European parameters preclude a national provision which, if a people's bank is converted into a company limited by shares, makes it possible for that company to defer or limit, including for an indefinite period, redemption of the shares held by the withdrawing shareholder; (ii) whether Articles 3 and 63 et seq. TFEU preclude a national provision such as that introduced by Article 1 of [Decree-Law No 3/2015](#) (converted, with amendments, by [Law No 33/2015](#)), which limits the exercise of cooperative banking activities within a given asset limit, requiring the bank concerned to be converted into a company limited by shares if it should exceed that limit; (iii) whether Article 107 et seq. TFEU preclude a national provision such as that introduced by Article 1 of [Decree-Law No 3/2015](#), converted, with amendments, by [Law No 33/2015](#) (and currently also Article 1(15) of [Legislative Decree No 72/2015](#), which has replaced Article 28(2-ter) of the [Italian consolidated law on banking](#), substantially reproducing the text of Article 1(1)(a) of [Decree-Law No 3/2015](#), as converted, with amendments that are not relevant to the present case), which requires a people's bank to be converted into a company limited by shares if it exceeds a certain asset threshold (set at EUR 8 billion), establishing restrictions on the redemption of the shares held by the shareholder in the event of withdrawal, to avoid the possible liquidation of the converted bank; (iv) whether the combined provisions of Article 29 of the [CRR](#) and Article 10 of [Commission Delegated Regulation \(EU\) No 241/2014](#) preclude a national provision such as that introduced by Article 1 of [Decree-Law No 3/2015](#) (converted, with amendments, by [Law No 33/2015](#)), as interpreted by the Italian Constitutional Court in [judgment](#) No 99/2018 (see case No 2, in section 5 of this list, below), which permits a people's bank to defer redemption for an unlimited period and to limit the associated amount in full or in part; (v) where, in its interpretation, the Court of Justice holds that the European legislation is compatible with the interpretation asserted by the opposing parties, can the Court of Justice assess the lawfulness, in European terms, of Article 10 of [Commission Delegated Regulation \(EU\) No 241/2014](#), in the light of Articles 16 and 17 of the [Charter](#) and the case-law of the European Court of Human Rights on Article 1 of the First Additional Protocol to the [ECHR](#)].

- Order of 18 January 2019 rejecting the referring court's request for an accelerated procedure [ECLI:EU:C:2019:68](#)
- Opinion of AG Hogan of 11 February 2020 [ECLI:EU:C:2020:90](#)
- Judgment of 16 July 2020 [ECLI:EU:C:2020:567](#)

[Italian legislation which prohibits *banche popolari* from refusing the redemption of capital instruments but which allows those banks to defer, for an unlimited period, the redemption of the shares held by the withdrawing shareholder and to limit the amount to be redeemed in full or in part, provided that the limitations on redemption imposed when exercising that option do not go beyond what is necessary, is compatible with EU law]

13. [Case C-83/20](#), **BPC Lux 2 and Others**, *closed*

[[request for a preliminary ruling](#) from the *Supremo Tribunal Administrativo* (Supreme Administrative Court, Portugal) concerning the decision by *Banco de Portugal* to resolve *Banco Espírito Santo*, S.A asking whether this was compatible with Article 17(1) of the [Charter](#) and [Directive 2014/59/EU](#)]

- Opinion of AG Pitruzzella of 14 October 2021 [ECLI:EU:C:2021:853](#)
- Judgment of 5 May 2022 [ECLI:EU:C:2022:346](#) (22 language versions available, English not included yet) concluding that Portuguese legislation under which the resolution was taken is compatible with EU law; see also [press release](#) and for a comment <https://eulawlive.com/op-ed-unforgivable-late-admissions-the-court-of-justice-decides-on-bank-resolution-in-bpc-lux-2-sarl-c-83-20-by-martinho-lucas-pires/>

14. [Case C-410/20](#), **Banco Santander, SA v J.A.C. and M.C.P.R.**, *closed*

[[request for a preliminary ruling](#) from the *Audiencia Provincial de A Coruña* (Provincial Court, A Coruña, Spain) concerning the protection of shareholders of credit institutions under resolution and the application of the bail-in pursuant to the [Directive 2014/59/EU](#)]

- Opinion of AG De la Tour of 2 December 2021 [ECLI:EU:C:2021:976](#)
- Judgment of 5 May 2022 [ECLI:EU:C:2022:351](#) rejecting *Banco Popular* affected investors' claims in favour of Santander; see for a comment <https://eulawlive.com/op-ed-banco-popular-affected-investors-claims-rejected-by-the-court-of-justice-in-favour-of-santander-c-410-20-by-pier-mario-lupinu/>

15. Case [C-794/22](#), **FSC v Banco Santander, S.A.**, request for a preliminary ruling from the *Tribunal Supremo* (Spain) lodged on 23 December 2022 , *pending*

[Claim for 1) a declaration of nullity in respect of the purchase of Subordinated Bonds Exchangeable for Subordinated Obligations of **Banco Popular Español** and, secondarily, 2) an award of damages, based on the bank's failure to fulfil its information obligations in relation to the subscription order for those bonds.

Concerns the interpretation of the BRRD [Directive 2014/59/EU](#)]

Summary of the [Request](#).

16. [Case C-822/21](#), **Republic of Latvia v Kingdom of Sweden**, *pending*

[proceedings concerning the requested but refused transfer by the Swedish deposit guarantee authority of contributions paid by the Latvian branch of *Nordea Bank AB* in the context of the restructuring of that bank in 2017 and 2018 – interpretation of [Deposit Guarantee Directive 2014/49/EU](#)], notably Article 14(3) on transfer of membership from one to another Deposit Guarantee System.]



- Opinion of Advocate General [Richard de la Tour](#) delivered on 7 September 2023, [ECLI:EU:C:2023:647](#),

17. [Case C-78/21](#), *AS 'PrivatBank', A and B and Unimain Holdings LTD v Finanšu un kapitāla tirgus komisija*, *closed*

- Opinion of Advocate General Juliane Kokott of 29 September 2022; [ECLI:EU:C:2022:738](#)
- Judgment of 2 March 2023; [ECLI:EU:C:2023:137](#)

[Reference for a preliminary ruling from the *Administratīvā apgabaltiesa* (Regional Administrative Court, Latvia) on the interpretation of the Treaty provisions on the freedom to provide services and the freedom of capital movements in the context of a national supervisory measure prohibiting certain cross-border activities. The Court interpreted the measures adopted by the *FKTK*, the Financial and Capital Market Commission of Latvia, as compatible with the Treaty provisions even though the transactions envisaged by the supervisory injunction constituted capital movements and the supervisory measure was qualified as a restriction of the freedom to provide services and the freedom of capital movements. This measure can, however, be justified on the basis of "Article 65(1)(b) TFEU which provides that Article 63 TFEU is to be without prejudice to the right of Member States, in particular, to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of the prudential supervision of financial institutions, or to take measures which are justified on grounds of public policy or public security" (paragraph 59). Subject to the national court examining the proportionality of the measure, it may be "justified, first, under Article 65(1)(b) TFEU where that measure is essential in order to prevent infringements of national law and regulations, in particular in the field of the prudential supervision of financial institutions.", while "such a restriction can also be justified by the need to prevent and combat money laundering and terrorist financing" (paragraph 66). The dictum is given in full below:]

1. Financial loans and credits and operations in current and deposit accounts with financial institutions and, in particular, credit institutions constitute movements of capital within the meaning of Article 63(1) TFEU.
2. The first paragraph of Article 56 and Article 63(1) TFEU must be interpreted as meaning that an administrative measure by which the competent authority of a Member State, first, prohibits a credit institution from entering into business relationships with any natural or legal person who has no connection with the Member State in which that institution is established and whose monthly account turnover exceeds a certain level, and, secondly, requires that institution to terminate any such business relationships entered into after the adoption of that measure, amounts to a restriction on the freedom to provide services, within the meaning of the first of those provisions, and a restriction on the movement of capital, within the meaning of the second of those provisions.
3. The first paragraph of Article 56 and Article 63(1) TFEU must be interpreted as meaning that they do not preclude an administrative measure by which the competent authority of a Member State, first, prohibits a credit institution from entering into business relationships with any natural person who has no links with the Member State in which that institution is established and whose monthly account turnover exceeds EUR 15 000, or with any legal person whose economic activity has no connection with that Member State and whose monthly account turnover exceeds EUR 50 000, and, secondly, requires that institution to terminate any such business relationships entered into after the adoption of that measure, provided that that administrative measure, first, is justified by the objective of preventing money laundering and terrorist financing or as a requisite measure to prevent infringements of national law and regulations in the field of the prudential supervision of financial institutions, or as a measure which is justified on grounds of public policy, referred to in Article 65(1)(b) TFEU; secondly, is appropriate for ensuring attainment of those objectives; thirdly, does not go beyond what is necessary for attaining them; and, fourthly, does not lead to an excessive impairment of the rights and interests protected under Articles 56 and 63 TFEU, which are enjoyed by the credit institution concerned and its customers.

18. Joined cases [C-498/22](#) (*Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v C.F.O.*), [C-499/22](#) (*Novo Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v J.M.F.T., M.H.D.S*) and [C-500/22](#) (*Novo Banco SA — Sucursal en España, Banco de Portugal, Fundo de Resolução v Proyectos, Obras y Servicios de Badajoz SL*), *pending*

[[Request for a preliminary ruling](#) from the *Tribunal Supremo* (Spain) lodged on 22 July 2022 on the following questions:

1. Is an interpretation of Article 3(2) of [Directive 2001/24](#) [on the reorganisation and winding up of credit institutions, rs] (which entails the recognition in a host Member State of the effects of a decision by the competent administrative authority of the home Member State which has not been published in the manner required by Article 6(1) to (4) of Directive 2001/24 compatible with the fundamental right to effective judicial protection under Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), the general principle of legal certainty and the principle of equality and the prohibition of any discrimination on grounds of nationality under Article 21(2) of the Charter?
2. Is an interpretation of Article 3(2) of Directive 2001/24 which entails the recognition in a host Member State of the effects of a decision by the competent administrative authority of the home Member State which transferred back to the failing bank to which the resolution measures were applied the obligations and responsibilities arising from a senior bond which was acquired by a third party while those obligations and responsibilities were in the ownership of the 'bridge bank' acting under the control of a public authority applying EU law, itself created among customers in the host Member State a legitimate expectation that the 'bridge bank' had assumed the liabilities corresponding to the responsibilities and obligations which the bank forming the subject of the reorganisation measure held in relation to those customers?
3. Is an interpretation of Article 3(2) of Directive 2001/24 which entails the recognition in a host Member State of the effects of a decision of the competent administrative authority of the home Member State which transfers to a 'bridge bank' the creditor position under a mortgage loan contract but leaves with the failing bank the obligation to reimburse to the consumer borrower the sums collected pursuant to an unfair term in that contract compatible with the fundamental right to property under Article 17 of the Charter, the principle of a high level of consumer protection under Article 38 of the Charter, Article 6(1) of Directive 1993/13/EEC of 5 April 1993 and the general principle of legal certainty?]

- Hearing on Thursday 26 October 2023

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

No.	Case
1.	<p><i>Ufficio del giudice per le indagini preliminari del Tribunale di Vicenza</i> (judge in charge of preliminary investigations at the Tribunal of Vicenza, Italy), order of 8 February 2018, <i>closed</i></p> <p>[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 <i>Banca Popolare di Vicenza SpA</i>, decided that the ECB, as well as the <i>Banca d'Italia</i>, 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]</p>
2.	<p><a href="#">Corte Costituzionale</a> (Constitutional Court, Italy), <a href="#">judgment</a> of 21 March 2018, n. 99, <i>closed</i></p> <p>[The Constitutional Court dismissed the questions for constitutionality raised by the <i>Consiglio di Stato</i> (Council of State, Italy) with regard to Article 1 of the <a href="#">Decree-Law No 3/2015</a>, converted, with amendments, by <a href="#">Law No 33/2015</a>. This provision allows cooperative banks (<i>banche popolari and banche di credito cooperativo</i>) 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 <a href="#">Italian consolidated law on banking</a>). The judgment is motivated by the following reasons. First, the Law Decree was</p>

<p>adopted in compliance with the requirements of urgency and necessity laid down by <a href="#">Article 77(2) of the Italian Constitution</a>. Second, the limitation to the shareholders' right to redeem their shares does not violate the right to property enshrined in <a href="#">Articles 41, 42, 117 of the Italian Constitution</a>, <a href="#">Article 1 of the Protocol to the ECHR</a> and <a href="#">Article 17 of the Charter</a>. 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 <a href="#">Commission Delegated Regulation (EU) No 241/2014</a>, (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 <a href="#">9° aggiornamento alla Circolare n. 285/2017</a>, the <a href="#">Decree-Law No 3/2015</a>, converted, with amendments, by <a href="#">Law No 33/2015</a>, did not exceed the limits of its mandate]</p>	
<p>3. <a href="#">Tribunale amministrativo regionale per il Lazio (TAR Lazio)</a> Regional Administrative Court, Italy), order of 7 June 2018, n. <a href="#">6364/2018</a>, <i>closed</i></p> <p>[The Regional Administrative Court decided to stay the proceeding brought by <i>Iccrea Banca SpA Istituto Centrale del Credito Cooperativo spa</i> for the annulment of several administrative acts by which Banca d'Italia required the applicant to pay its contribution for 2016 to the national resolution fund and referred to the CJEU several questions for a preliminary ruling which were the subject of the <a href="#">Case C-414/18</a>, <i>Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia</i>, no longer pending]</p>	
<p>4. <a href="#">UK Supreme Court</a>, judgment of 4 July 2018, [2018] UKSC 34 [<i>Goldman Sachs International (Appellant) v Novo Banco SA (Respondent)</i>, <i>closed</i></p> <p><i>Guardians of New Zealand Superannuation Fund and others (Appellants) v Novo Banco SA (Respondent)</i></p> <p><a href="#">Summary by Petja Ivanova</a></p>	
<p>5. <a href="#">Consiglio di Stato</a> (Council of State, Italy), judgment of 3 May 2019, n. <a href="#">2890/2019</a>, <i>closed</i></p> <p>[The Council of State, in line with the CJEU's judgment in the <a href="#">Case C-219/17</a>, declared inadmissible the actions brought by Mr Silvio Berlusconi and by Finanziaria d'Investimento Fininvest SpA which sought to declare that the Banca d'Italia proposal to oppose the acquisition of a qualifying holding in <i>Banca Mediolanum SpA</i> was in contrast with the final judgment of the Council of State n. <a href="#">882/2016</a> which upheld the applicant's claim that the reason for the lack of good reputational standing that justified the opposition to the acquisition of the qualifying holding at issue had arisen before the legislation imposing that requirement entered into force, and was not therefore covered by that legislation. The Council of State also held that the applicants' request to refer to the Italian Constitutional Court a question on the alleged contrast of Article 263 TFUE, as implemented by national law, with the the right to an effective judicial protection set out in Articles 2, 24, 11 and 117 of the Italian constitution is unfounded]</p>	
<p>6. <a href="#">Audiencia Nacional</a> (National High Court, Spain), judgment of 29 May 2019, n. 912/2017</p> <p>[The National High Court dismissed the claim for civil liability brought an investor against the <i>Banco de España</i> in relation to the loss of EUR 118,000 for the alleged failure to properly supervise <i>Banco Popular Español, SA</i>. The National High Court held that the claim is unfounded as the competent authority for the prudential supervision of <i>Banco Popular Español, SA</i> at the time of the resolution was not the <i>Banco de España</i> but the ECB. The same Applicant has filed a claim for civil liability also against the ECB (<a href="#">Case T-613/17</a>, <i>La Guirigaña and Others v ECB and SRB</i>, <i>pending</i>, reported in section 3.2, above)]</p>	

7. [Bundesverfassungsgericht](#) (Constitutional Court, Germany), judgment of 30 July 2019 [2 BvR 1685/14, 2 BvR 2631/14](#) ([Press release](#)), *closed*  
 [Constitutional complaint by the [Europol 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. 1050](#)); [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](#)].  
 Critically discussed by René Smits in his [contribution](#) at the ECB Legal Conference 2019; see the [proceedings](#): Building bridges: central banking law in an interconnected world.
8. [Tribunale amministrativo regionale per il Lazio \(TAR Lazio\)](#) Regional Administrative Court, Italy), judgments of 24 September 2019, n. [11264/2019](#) and n. [11276/2019](#), *pending*  
 [The Regional Administrative Court, in line with the CJEU's judgment in the [case C-219/17](#) and the Council of State's judgment n. [2890/2019](#) declared inadmissible the actions brought by Mr Silvio Berlusconi and by Finanziaria d'Investimento Fininvest SpA which sought the annulment of several acts of Banca d'Italia, including the proposal to the ECB to oppose the acquisition of a qualifying holding in Banca Mediolanum SpA. Moreover, the Regional Administrative Court held that the applicants' request to refer to the Italian Constitutional Court a question on the alleged contrast of Article 263 TFUE, as implemented by national law, with the the right to an effective judicial protection set out in Articles 2, 24, 11 and 117 of the Italian constitution, on the alleged contrast of Article 25 of the [Italian consolidated law on banking](#) with Article 25 of the Italian constitution and on the alleged contrast of Article 19(5) of [Italian consolidated law on banking](#) with Article 3 of the Italian constitution are not relevant]
9. [Corte Costituzionale](#) (Constitutional Court, Italy), [judgment](#) of 15 January 2020, n. 17, *closed*  
 [The Constitutional Court dismissed the claim of the Italian Region Sicily against *Banca d'Italia* and the Italian Prime Minister for the suspension and annulment of the *Banca d'Italia* [decision](#) dated 26 March 2019 which placed the *Banca di credito cooperativo di San Biagio Platani* ('BCC San Biagio'), a cooperative bank part of the ICCREA Banking Group, under special administration due to serious breaches of law and irregularities. The Sicily Region claimed that *Banca d'Italia* was not competent to adopt this measure given that the bank is a 'regional bank' in accordance with the Legislative Decree No [205/2012](#) implementing the Statute of the Sicily Region and therefore the Region should have been competent to take this measure for this bank. The Constitutional Court rejected this argument because as a result of the Decree Law No [18/2016](#), reforming cooperative banks, decree law , which required cooperative banks to join a cooperative group in order to continue carrying out banking activity, the *BCC San Biagio* joined the ICCREA Banking Group and therefore lost the character of 'regional bank']
10. [Constitutional Court \(Slovenia\)](#), judgment of 8 April 2021, n. U-I-413/20-13  
 [The Constitutional Court dismissed the claim brought by Banka Slovenije that Article 2 of the ZBS-1C and the second sentence of the second indent of the second paragraph of Article 52a of the ZBS-1 are in contrast with the Slovenian Constitution. This national legislation confers on the Slovenian Court of Audit the task to review the regularity and expediency of the applicant's operations for a period of the last 15 years before the entry into force of this Act and the supervisory practices carried out by Banka Slovenije until 4 November 2014 which led to the expenditure of state budget funds of the Republic of Slovenia]

11. [Corte Suprema di Cassazione \(Sezioni Unite Civili\)](#), (Supreme Court, Joined Chambers, Italy) judgment of 20 April 2021, n. 10355

[The Supreme Court rejected the challenge brought by *Fininvest* against a judgment of the Italian Council of State (*Consiglio di Stato*) of 3 May 2019 which had declared inadmissible the claim submitted by *Fininvest* for the enforcement of a final judgment concerning (*giudizio di ottemperanza*). The Supreme Court stated, in line with the CJEU judgment of 19 December 2018 in Case C-219/17, that all the acts adopted in the framework of the SSM, represent an intermediate step of a unitary procedure in which only the ECB has decisional power. As a consequence, only Union courts have jurisdiction on these acts, including the preparatory acts and also in relation to the compliance with applicable national law.]

## 6. Other relevant judicial proceedings

Under this heading we highlight selected proceedings that are relevant in the context of proceedings on our list.

### 6.1 Judicial proceedings in the context of Emergency Liquidity Assistance

The following proceedings deal with requests for access to ECB documents in relation to the granting of Emergency Liquidity Assistance (ELA): the judgment of 13 March 2019 in Case T-730/16 (*Espírito Santo Group SA v ECB*), on appeal in Case C-396/19 P, and the judgment of 12 March 2019 in Case T-798/17, (*De Masi and Varoufakis v ECB*), on appeal in Case C-342/19 P.

No.	Case
1.	<p>Case <a href="#">T-251/15</a>, <i>Espírito Santo Financial (Portugal), SGPS, SA v ECB</i>, <i>closed</i></p> <p>[request to annul the tacit decision taken by the ECB on 4 March 2015, under the terms of Article 8(3) of Decision ECB/2004/3, not to provide full access to the ECB decision of 1 August 2014, suspending <i>Banco Espírito Santo SA</i>'s Eurosystem monetary policy counterparty status and obliging the said bank to fully repay its debt to the Eurosystem to an amount of 10 billion EUR, as well as all documents, in the ECB's possession, which were in any way related to the said decision]</p> <ul style="list-style-type: none"><li>Judgment of 26 April 2018 partially annulling the contested decision in so far as it refuses to disclose the amount of credit indicated in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014 and the information redacted from the proposals of the Executive Board of the ECB of 28 July and 1 August 2014 <a href="#">ECLI:EU:T:2018:234</a></li></ul> <p><b>Appeal:</b> Case <a href="#">C 442/18 P</a>, <i>ECB v Espírito Santo Financial (Portugal), SGPS, SA</i>, <i>closed</i></p> <p>[By its appeal, the ECB sought to have set aside the judgment of the General Court of the European Union of 26 April 2018]</p> <ul style="list-style-type: none"><li>Judgment of 19 December 2019 by which the CJEU: (i) set aside point 1 of the operative part of the judgment of the General Court in so far as, by that point, the General Court annulled the decision of the ECB of 1 April 2015 partially refusing access to certain documents relating to the ECB's decision of 1 August 2014 concerning <i>Banco Espírito Santo SA</i> in so far as, by that decision, the ECB refused to disclose the amount of credit indicated in the extracts from the minutes recording the decision of the Governing Council of the ECB of 28 July 2014 and dismisses the ECB's appeal as to the remainder; (ii) dismissed the action brought by <i>Espírito Santo Financial (Portugal), SGPS, SA</i> in so far as it seeks annulment of the decision of the ECB of 1 April 2015 partially refusing access to certain documents relating to the ECB's decision of 1 August 2014 concerning <i>Banco Espírito Santo SA</i> in so far as, by that decision, the ECB refused to disclose the amount of credit indicated in the extracts from the minutes recording the decision of the Governing Council of the ECB of 28 July 2014 <a href="#">ECLI:EU:C:2019:1117</a></li></ul>
2.	<p><a href="#">Case T-730/16</a>, <i>Espírito Santo Financial Group SA v ECB</i>, <i>closed</i></p> <p>[request for annulment of the ECB Decision of 31 August 2016 not to provide full access to the ECB decision of 1 August 2014 which suspended <i>Banco Espírito Santo SA</i>'s Eurosystem monetary policy counterparty status and obliged it fully to repay its debt to the Eurosystem and refusing full access to related documents or decisions of ECB bodies. The</p>



applicant relies on six pleas in law: (i) breach of the duty to state reasons in relation to the refusal to grant access to the ECB Governing Council's decisions; (ii) breach of the first, second and seventh indents of Article 4(1)(a) of the Decision ECB/2004/3 of 4 March 2004 on public access to ECB documents ([ECB Public Access Decision](#)) in relation to the refusal to grant access to the ECB Governing Council's decisions; (iii) breached of the duty to state reasons in relation to the refusal to grant access to the ECB Executive Board's proposals; (iv) breach of the second and seventh indents of Article 4(1)(a) of the [ECB Public Access Decision](#) in relation to the refusal to grant access to the ECB Executive Board's proposals; (v) breach of the first indent of Article 4(2) of the [ECB Public Access Decision](#) in relation to the refusal to grant access to the ECB Executive Board's proposals; (vi) breach of Article 4(3) of the [ECB Public Access Decision](#) in relation to the refusal to grant access to the ECB Executive Board's proposals.

- Judgment of 13 March 2019 which partially annuls the ECB Decision of 31 August 2016 partially refusing to disclose certain documents relating to its decision of 1 August 2014 concerning *Banco Espírito Santo SA*, in so far as it refused to disclose the amount of credit indicated in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014 and the information redacted from the proposals of the Executive Board of the ECB of 28 July and 1 August 2014 [ECLI:EU:T:2019:161](#)

**Appeal:** [Case C-396/19 P](#), *closed*

[the ECB claims that the the Court should set aside point no. 1 of the operative part of the judgment of the General Court of 13 March 2019, dismiss the application also as concerns the ECB's refusal to disclose the amount of credit in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014; in the alternative, refer the case back to the General Court for it to give judgment. The ECB submits that the General Court erroneously interpreted and applied Article 10.4 of the Statute of the European System of Central Banks and of the ECB ("[Statute](#)") and the first indent of Article 4(1)(a) of the [ECB Public Access Decision](#), by holding that the Governing Council's discretion regarding the disclosure of its minutes must be exercised in light of the conditions laid down in the [ECB Public Access Decision](#) (paragraph 60), meaning, in the particular case, that the ECB is obliged to provide a statement of reasons explaining how disclosure of information contained in minutes of Governing Council proceedings recording Governing Council decisions specifically and actually undermine the public interest as regards the confidentiality of proceedings of the ECB's decision-making bodies (paragraph 61)]

- Judgment of 20 October 2020; [ECLI:EU:C:2020:845](#) in which the CJEU finds that "the General Court erred in law by ruling, in paragraph 111 of the judgment under appeal, that the ECB had failed to fulfil its obligation to state reasons in support of its decision refusing disclosure of the amount of credit concerned to the [Insolvent Estate of Espírito Santo Financial Group SA]" as "sufficient reasons [were] given for a decision refusing to disclose the outcome of the proceedings of the Governing Council".

### 3. [Case T-798/17](#), *De Masi and Varoufakis v ECB*, *closed*

[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. Pleas in law: incorrect application of the second indent of Article 4(2) of the [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"]

- Judgment of 12 March 2019 dismissing the applicants' claim [ECLI:EU:T:2019:154](#) (available in 23 languages, including English)

**Appeal:** [C-342/19 P](#), *pending*

[The appellants claim that the CJEU should set aside in its entirety the judgment on the basis of four grounds of appeal (i) failure to have regard for the primary law principle of transparency (Articles [15\(1\) TFEU](#), 10(3) [TEU](#) and 298(1) TFEU and Article 42 of the [Charter](#); (ii) failure to have regard to the obligation to state reasons as the contested ECB decision allegedly fails to set out the specific prejudice to the ECB; (iii) failure to have regard for the connection between Articles 4(3) (Transparency exceptions: opinions for internal use) and 4(2) (Transparency exceptions: legal communications) of the [ECB Public Access Decision](#) as Article 4(2) is said to constitute a *lex specialis* in relation to legal opinions and the fact that Article 4(3) of that decision is not applicable to abstract legal advice; (iv) unlawfully denying an overriding public interest in the publication of the document in the sense of Article 4(3) of the [ECB Public Access Decision](#)]

- Opinion of Advocate General Pikamäe delivered on 9 July 2020; [ECLI:EU:C:2020:549](#) who advises the CJEU to uphold the appeal.

## 6.2 Judicial proceedings in the context of state aid

### No Case

#### 1. [Case T-98/16](#), *Italy v Commission*, *closed*

[Case T-196/16](#), *Banca Tercas v Commission*, *closed*

[Case T-198/16](#), *Interbank Deposit Protection Fund v Commission*, *closed*

[request for annulment of the European Commission Decision No C (2015) 9526 final of 23 December 2015 on the State aid SA.39451 (2015/C) (ex 2015/NN) ('contested Decision') implemented by Italy for *BANCA TERCAS* (*Cassa di risparmio della provincia di Teramo SpA*) The applicants alleged, in essence: (i) the infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the public nature of the resources to which the disputed measures relate; (ii) the infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the imputability of the contested measures to the State; (iii) the infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the granting of a selective advantage. Incorrect application of the MEIP (market-economy-investor principle) criterion; (iv) the infringement of Article 107(3)(b) TFEU and erroneous reconstruction of the facts in respect of the assessment of compatibility of the alleged State aid with the internal market; (v) the Commission's failure to provide adequate reasons on the public nature of the resources and their imputability to the State; (vi) the Commission's manifest error of assessment in deeming the measures in question incompatible with the internal market]

- Judgment of 19 March 2019 in joined cases T-98/16, T-196/16 e T-198/16, Italy, *Banca Popolare di Bari SCpA* (former *Banca Tercas*), *Interbank Deposit Protection Fund*, supported by *Banca d'Italia v Commission* of 19 March 2019 annulling the contested Decision [ECLI:EU:T:2019:167](#) This judgment concerns the [Fondo interbancario di tutela dei depositi](#) (Italian deposit insurance guarantee consortium)

**Appeal:** [Case C-425/19 P](#), *Commission v Italy and Others*, *closed*

[the Commission claims that the CJEU should set aside the judgment of the General Court of 19 March 2019 on the basis of two grounds: (i) the Commission claims that the General Court infringed Article 107(1) TFEU for two reasons: the General Court erred as regards the burden of proof to be discharged by the Commission in order to establish that the conditions concerning imputability and State resources were met, by requiring the Commission to demonstrate

positively the existence of a dominant influence on the part of the public authorities, at every stage of the procedure which led to the adoption of the measures in question, over the entity granting the aid, solely on account of the fact that the latter is a private entity; the General Court erred as regards the burden of proof to be discharged by the Commission in order to establish that the conditions concerning imputability and State resources were met, by examining and assessing the various evidence produced by the Commission in the decision at issue piecemeal, without considering it as a whole and without taking into account its broader context; (ii) the findings of the General Court are further vitiated by serious material inaccuracies concerning the facts and the interpretation of the relevant Italian law which are clearly apparent from the case-file]

- Opinion of AG Tachev of 28 October 2020 concluding that the Commission's appeal should be dismissed [ECLI:EU:C:2020:878](#)
- Judgment of 2 March 2021 dismissing the Commission's appeal [ECLI:EU:C:2021:154](#)

## 2. [Case T-298/18](#), **Banco Comercial Português and Others v Commission**, *closed*

[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 SA* ("*Novo Banco*") by the former to the latter, as State aid compatible with the internal market. The applicants rely on six pleas in law: (i) error in law in considering that the 2014 resolution of *Banco Espírito Santo SA* ("*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; (v) infringement of Articles 101 and 44 of the [BRRD](#); (vi) infringement of Article 108(2) of the TFEU and Article 4(4) of the [Council Regulation \(EU\) 2015/1589](#) 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]

- Order of 29 November 2018 granting permission to Novo Banco, SA, Banco de Portugal, the Fundo de Resolução and Nani Holdings, SGPS, SA to intervene in the case in support of the form of order sought by the European Commission [ECLI:EU:T:2018:895](#)
- Order of 30 September 2020 removing the case from the Court's registry following the applicants's request to discontinue proceedings [ECLI:EU:T:2020:477](#)

<sup>1</sup> [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."

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

<sup>3</sup> 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.

<sup>4</sup> The pleas in law and main arguments are similar to those relied on in Case T-659/17, *Vallina Fonseca v SRB*.

<sup>5</sup> 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, SA*. for having repurchased its own shares without prior permission and ordered the publication of this decision on its website.

<sup>6</sup> 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 case description, *Τράπεζα της Ελλάδος* has been translated as Bank of Greece (BoG).