

- b) infringes Article 16 of the Charter of Fundamental Rights of the European Union, in that it unjustifiably restricts the applicant's fundamental right of freedom to conduct a business;
 - c) infringes the principle of proportionality, in failing to take into consideration the double counting of some of the applicant's liabilities, thereby generating an unnecessary and disproportionate restriction which is manifestly unjustifiable.
2. The second plea in law alleges infringement of the second subparagraph of Article 103(2) of Directive 2014/59 and Article 70 of Regulation 806/2014, interpreted in the light of Article 16 of the Charter of Fundamental Rights of the European Union and the principle of proportionality.
- It is claimed, in that regard, that the reasons justifying the non-application of Article 5(1) of Delegated Regulation 2015/63 clearly show that it is necessary to adjust the applicant's risk profile to the operative singularity of the cooperative network it leads, as the abovementioned provisions require. Consequently, and to that extent, the contested decision, the content of which corresponds to a strict and literal application of a rule that takes no account of the applicant's risk profile, must be regarded as being contrary to the second subparagraph of Article 103(2) of Directive 2014/59 and, in particular, Regulation No 806/2014, Article 70 of which, relating to *ex ante* contributions, refers to the provisions of Directive 2014/59 and to its implementing legislation.
3. Third plea in law, alleging a misapplication of the case-law of the Court of Justice which allows a decision to be given retroactive effect.
- It is claimed, in that regard, that the contested decision disregards the case-law in that:
 - a) the objectives alleged by the SRB in order to justify the retroactive application of the contested decision are not public interest objectives capable of justifying a departure from the general principle that acts of the European Union should not be applied retroactively;
 - b) in any event, retroactive application is neither essential nor necessary to achieve those objectives, given that there are less onerous alternatives for the parties to ensure that those objectives are achieved, and
 - c) the legitimate expectations of the applicant were infringed, since the action taken by the SRB was contrary to the intended aims of the General Court in Case T-323/16.
4. Fourth plea in law, based on the SRB's non-contractual liability pursuant to Articles 268 and 340 TFEU and Article 87(3) of Regulation 806/2014 on the ground of unjust enrichment.
- It is claimed, in that regard, that the SRB must compensate the BCE in respect of non-contractual liability for unjust enrichment in respect of the interest accrued from the time of payment of the 2016 *ex ante* contribution — a payment which was not in line with a decision of the SRB which was compatible with the annulment of the decision of 2016 in Case T-323/16— and the time of final payment or, in the alternative, the date of the contested decision.

**Order of the General Court of 25 June 2020 — Einkaufsbüro Deutscher Eisenhändler v EUIPO —
Tigges (TOOLINEO)**

(Case T-877/19) ⁽¹⁾

(2020/C 313/49)

Language of the case: German

The President of the Ninth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 61, 24.2.2020.
