

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul Article I.4.1 of the defendant's decision of 12 December 2016 (Reference: FINS-2017-30) concerning the reduction of the pre-financing amount to 33 % of the specified maximum amount and ordering the lodging of a guarantee;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant raises two pleas in law.

1. First plea in law: infringement of the Treaties and of the rules of law relating to their application

- The applicant claims, that under Article 134(2) of Regulation (EU, Euratom) No 966/2012 ⁽¹⁾ and Article 206(1) of Delegated Regulation (EU) No 1268/2012, ⁽²⁾ guarantees are not at all required for low-value grants.
- Moreover, the defendant has no interest in obtaining a guarantee because the review request brought against the 'Alliance for Peace and Freedom' (APF) is entirely devoid of substance and manifestly unfounded.
- In addition, the defendant deliberately delayed the review procedure brought against the APF for half a year and thereby itself occasioned its alleged need for a guarantee.
- Furthermore, the measures are disproportionate because the applicant is not in a position to provide guarantees and is threatened with the loss of its economic existence through the withdrawal of the financial assistance, which gives rise to a distortion of political competition. This constitutes a serious infringement of the applicant's fundamental rights to freedom of expression and association (Articles 11 and 12 of the Charter of Fundamental Rights of the European Union).

2. Second plea in law: misuse of powers

In addition, the applicant alleges a misuse of powers by the defendant. It takes the view that the defendant's measures amount to a purely politically motivated manoeuvre designed to withdraw financial assistance from an unpopular political party, including the foundation affiliated to it, and thereby to manipulate political competition within the European Union.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).

Action brought on 12 January 2017 — Landesbank Baden Württemberg v SRB

(Case T-14/17)

(2017/C 063/54)

Language of the case: German

Parties

Applicant: Landesbank Baden Württemberg (Stuttgart, Germany) (represented by: H. Berger and K. Rübsamen, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Single Resolution Board of 15 April on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) and the decision of the Single Resolution Board of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the Single Resolution Fund, supplementing the decision of the Board of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/13), in so far as the contested decisions concern the applicant's contribution;
- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging an infringement of Article 296(2) TFEU and Article 41(1) and (2)(c) of the Charter of Fundamental Rights of the European Union ('the Charter') due to a lack of sufficient reasons given for the contested decisions
2. Second plea in law, alleging an infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter due to the absence of a hearing of the applicant before the adoption of the contested decisions
3. Third plea in law, alleging an infringement of Article 103(7)(h) of Directive 2014/59/EU ⁽¹⁾, Article 113(7) of Regulation (EU) No 575/2013 ⁽²⁾, the first sentence of Article 6(5) of Delegated Regulation (EU) 2015/63 ⁽³⁾, Article 16 and 20 of the Charter and the principle of proportionality due to the application of the multiplier of 0.556 for the IPS (Institutional Protection Scheme) — Indicator

The applicant claims in the context of the third plea in law that the defendant had not fully applied the IPS-Indicator with respect to it. The protection offered by an institutional protection scheme applies to all member institutions fully and equally. Discrimination between the institutions at the level of IPS-Indicators is inconsistent with the system and arbitrary.

4. Fourth plea in law, alleging an infringement of Article 16 of the Charter and the principle of proportionality due to the application of the risk adjustment multiplier

The applicant also relies on the fact that the Board infringed its freedom to conduct a business and 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 .

⁽¹⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance (OJ 2014 L 173, p. 190).

⁽²⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ 2013 L 176, p. 1).

⁽³⁾ Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (OJ 2015 L 11, p. 44).