

3. Third plea in law: the Commission committed a procedural error

- Lastly, the applicant submits that Article 8 of Regulation (EC) No 1049/2001 has been infringed. Despite two extensions of the time limit, most recently for an indefinite period, no decision had been taken, by the date on which the action was lodged, on the confirmatory application made by the applicant on 29 May 2017. Article 8 of Regulation (EC) No 1049/2001 provides only for the possibility of a single extension of the time limit by 15 working days and not an extension for an indefinite period.

⁽¹⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ 2006 L 264, p. 13).

⁽²⁾ 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 (OJ 2001 L 145, p. 43).

Action brought on 2 August 2017 — *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*

(Case T-478/17)

(2017/C 318/24)

Language of the case: Spanish

Parties

Applicants: Mutualidad General de la Abogacía, Mutualidad de Previsión Social a prima fija (Madrid, Spain) and Hermandad Nacional de Arquitectos Superiores y Químicos, Mutualidad de Previsión Social a prima fija (Madrid) (represented by: R. Pelayo Jiménez and A. Muñoz Aranguren, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

- annul the Single Resolution Board Decision of 7 June 2017 (SRB/EES/2017/08);
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The decision contested in the present action established a resolution procedure applicable to the Banco Popular Español.

In support of their action, the applicants rely on ten pleas in law.

1. First plea in law, alleging a failure to state reasons for the contested decision and the consequent infringement of the rights to good administration and to an effective remedy (Articles 41(2)(b) and (c) and 17 of the Charter of Fundamental Rights of the European Union).
2. Second plea in law, alleging an infringement of the rights of defence (Article 41(2)(a) of the Charter of Fundamental Rights).
 - It is claimed in this respect that the resolution procedure set out in Articles 18, 24(2)(a) and 27 of Regulation (EU) No 806/2014 ⁽¹⁾ infringes the rights of defence, in that it does not allow those concerned by that resolution to have even the slightest involvement in the procedure. Articles 32, 38 and 43 of Directive 2014/59/EU, ⁽²⁾ according to the applicants, are tainted by the same illegality as they make no provision whatever for the parties concerned to be heard.
3. Third plea in law, alleging infringement of the right to property (Article 17(1) of the Charter of Fundamental Rights) and of the principle of freedom to conduct a business (Article 16 of the Charter of Fundamental Rights).
 - It is claimed in this respect that Articles 21, 22, 24 and 27 of Regulation (EU) No 806/2014, as well as Articles 38 and 63 of Directive 2014/59/EU, infringe the right to property and the principle of the right to conduct a business, in that they allow the sale of shares in a financial entity without allowing arguments from shareholders or requiring their consent, and confer on the resolution authorities powers to reduce the capital to zero by cancelling the shares, without a hearing or agreement of the shareholders or of the competent organs of the company.

4. Fourth plea in law, alleging infringement of the right to an effective legal remedy, enshrined in Article 47 of the Charter of Fundamental Rights and in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, by infringing the principle of equality of arms and consequently, the right to a fair trial.
5. Fifth plea in law, alleging infringement of Article 18(1) of Regulation (EU) No 806/2014 and of Article 32 of Directive 2014/59/EU by reason of the fact that the Single Resolution Board committed a manifest error in its assessment of the facts by not complying with the conditions for the adoption of a resolution action laid down in the provisions mentioned.
6. Sixth plea in law, alleging infringement of the principle of prudential banking (precautionary principle) because of the existence of alternative means to those envisaged in the contested decision, including those of early intervention, which precluded the adoption of the resolution action.
7. Seventh plea in law, alleging infringement of the principle of the protection of legitimate expectations.
8. Eighth plea in law, alleging infringement of the principle of proportionality in relation to the right to property.
9. Ninth plea in law, alleging infringement of Article 20(1) of Regulation (EU) No 806/2014, in that the independent expert's valuation cannot be regarded as 'fair, prudent and realistic'.
10. Tenth plea in law, alleging infringement of Article 24 of Regulation (EU) No 806/2014 and of Article 39(2)(a), (b), (d) and (f) of Directive 2014/59/EU by the defendant in that the rules governing the procedure for the sale of the entity set during the extended executive session of 3 June 2017 were not transparent, a potential purchaser (El Banco de Santander) was favoured and the sale price was not as high as it could have been.

⁽¹⁾ 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).

⁽²⁾ 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 (OJ 2014 L 173, p. 190).

Action brought on 2 August 2017 — Fundación Tatiana Pérez de Guzmán el Bueno and SFL v SRB

(Case T-481/17)

(2017/C 318/25)

Language of the case: Spanish

Parties

Applicants: Fundación Tatiana Pérez de Guzmán el Bueno (Madrid, Spain) and SFL — Stiftung für Forschung und Lehre (Zurich, Switzerland) (represented by: R. Pelayo Jiménez and A. Muñoz Aranguren, lawyers)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the Court should:

- annul the decision of the Single Resolution Board of 7 June 2017 (SRB/EES/2017/08);
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

The pleas in law and main arguments are those relied on in Case T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos v SRB*.