

Action brought on 17 August 2017 — Liaño Reig v SRB

(Case T-557/17)

(2017/C 357/32)

*Language of the case: Spanish***Parties**

Applicant: Carmen Liaño Reig (Alcobendas, Spain) (represented by: F. López Antón, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the Court should:

- On the basis of the considerations set out in pleas 3.1 to 3.4 of the present action, annul the resolution measure agreed in Article 6(1)(d) consisting in the conversion of the Level 2 capital instrument relating to the subordinated bonds issued by BPE Financiaciones S.A. under ISIN XS0550098569, and identified as #4, into newly issued Banco Popular Español S.A. shares on the ground that it is unfounded and contrary to the Regulation and the Charter of Fundamental Rights of the European Union;
- Should the Court uphold the request set out in the previous paragraph, given that, according to the provisions of Recital 91 and the last subparagraph of Article 85(4) of the Directive, annulment of a decision of a resolution authority does not affect any subsequent administrative acts or transactions that are based on the annulled decision, order the SRB, pursuant to that article, and in accordance with Article 87(3) of the Regulation, to compensate the applicant for the loss incurred as a consequence of annulment of the decision referred to in the previous paragraph.

To that effect, the loss incurred by the applicant is fixed at the actual value at the date of her payment of the sum of EUR 50 000 corresponding to the nominal value of the bond with a maturity date of 22 October 2020 issued by BPE Financiaciones S.A. under ISIN XS0550098569 which the applicant held at the date of the decision, plus the actual value at the date of her payment of interest at the annual fixed rate of 6,873 % which that bond would have accrued between 7 June 2017 (date of the decision) and 22 October 2020 (maturity date of that bond).

- In the alternative to the requests made in the preceding paragraphs, and in accordance with the considerations in plea 3.5 of the present action, order the SRB to compensate the applicant with an amount equivalent to that which she would have received as holder of the bond ISIN XS0550098569 issued by BPE Financiaciones S.A. had that company been liquidated at the date of the Decision as a result of an ordinary insolvency procedure, taking into account the fact that the applicant has not received any compensation or consideration either as a result of the conversion of the bond referred to, which she held, into newly issued Banco Popular Español S.A. shares or owing to the transfer of those shares to Banco Santander S.A.;
- If the Spanish law requirements for starting an ordinary insolvency procedure in relation to BPE Financiaciones S.A., which would result in its liquidation at the date of the decision, are not met (which the applicant believes to be the case), the amount of the compensation to be paid to the applicant is fixed at EUR 50 000, corresponding to the nominal value of the bond issued by that company which she holds;
- If the Spanish law requirements for starting an ordinary insolvency procedure in relation to BPE Financiaciones S.A., which would result in its liquidation at the date of the decision, are met, the amount of the compensation claimed will be the amount resulting from the valuation that has to be made in accordance with the provisions of Article 20(16) to (18) of the Regulation;
- In the alternative to the requests made in the preceding paragraphs, and in accordance with the considerations in plea 3.6 of the present action, order the SRB to compensate the applicant with a commensurate amount to the amount which would have stemmed from the conversion of all the subordinated bonds issued by the Banco Popular Español S.A. in existence at the date of the decision that had not been converted into shares of that institution pursuant to the provisions of Article 6(1) of the Decision.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Cases T-478/17, *Mutualidad de la Abogacía and Hermandad Nacional de Arquitectos Superiores y Químicos v Single Resolution Board*, T-481/17, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL v Single Resolution Board*, T-482/17, *Comercial Vascongada Recalde v Commission and Single Resolution Board*, T-483/17, *García Suárez and Others v Commission and Single Resolution Board*, T-484/17, *Fidesban and Others v Single Resolution Board*, T-497/17, *Sánchez del Valle and Calatrava Real State 2015 v Commission and Single Resolution Board*, and T-498/17, *Pablo Álvarez de Linera Granda v Commission and Single Resolution Board*.

Action brought on 22 August 2017 — UG v Commission

(Case T-571/17)

(2017/C 357/33)

Language of the case: French

Parties

Applicant: UG (represented by: M. Richard and P. Junqueira de Oliveira, lawyers)

Defendant: European Commission

Form of order sought

- Annul the decision of the European Commission of 18 May 2017 (No R/40/17) and all the decisions which form the basis thereof;
- Order the re-employment of the applicant;
- Order the European Commission to pay pending salaries and damages of EUR 40 000;
- Annul the salary deductions made unlawfully;
- Reimburse the sum of EUR 6 818,81 deducted in excess of the salary deductions made unlawfully;
- Order the European Commission to pay all the costs and to pay the legal fees, provisionally assessed at EUR 10 000.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the right to be heard, in that the Commission organised no more than a semblance of a procedure prior to dismissal.
2. Second plea in law, alleging material errors vitiating the contested decision, in that the grounds on which it is based are imprecise, not real and not genuine.
3. Third plea in law, alleging misuse of powers, in that the Commission dismissed the applicant because of the applicant's trade union activities and for having taken parental leave.
4. Fourth plea in law, alleging infringements of Article 42 of the Staff Regulations of Officials, Clause 5.4 of the Revised Framework Agreement on parental leave following Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (OJ 2010 L 68, p. 13), Article 7 of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community — Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ 2002 L 80, p. 29) and Annex IX to the Staff Regulations, failing to follow the disciplinary procedure.