

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action.*
2. *Habermaas GmbH and Here Global BV shall bear their own costs and shall each pay half of the costs incurred by the European Union Intellectual Property Office (EUIPO).*

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<sup>(1)</sup> OJ C 86, 20.3.2017.

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**Order of the President of the General Court of 26 September 2017 — António Conde & Companhia v Commission**

**(Case T-443/17 R)**

**(Application for interim measures — Fishing vessels — Regional fisheries management organisation for the North-East Atlantic — Application for interim measures — No urgency)**

(2017/C 392/41)

*Language of the case: English*

**Parties**

*Applicant:* António Conde & Companhia, SA (Gafanha de Nazaré, Portugal) (represented by J. García-Gallardo Gil-Fournier, lawyer)

*Defendant:* European Commission (represented by A. Bouquet, A. Lewis and F. Moro, acting as Agents)

**Re:**

Application pursuant to Articles 278 and 279 TFEU seeking an order that the Commission submit to the secretary of the North-East Atlantic Fisheries Commission (NEAFC) the amended list for 2017, sent to the Commission by the Portuguese Republic, containing the Portuguese-flagged vessels *Santa Isabel* and *Calvão*.

**Operative part of the order**

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

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**Action brought on 17 August 2017 — Algebris (UK) and Others v Commission**

**(Case T-570/17)**

(2017/C 392/42)

*Language of the case: English*

**Parties**

*Applicants:* Algebris (UK) Ltd (London, United Kingdom), Anchorage Capital Group LLC (New York, New York, United States), Ronit Capital LLP (London) (represented by: T. Soames, lawyer, R. East, Solicitor, N. Chesaites, Barrister, and J. Vandenbussche, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme adopted by the Single Resolution Board by Decision SRB/EES/2017/08 of 7 June 2017 in respect of Banco Popular Español, S.A. <sup>(1)</sup> in its entirety, or alternatively, Article 1 thereof;
- order the Commission to pay the Applicants' legal costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the European Commission failed properly, or at all, to comply with its legal obligation to assess the discretionary aspects of the Resolution Scheme.
2. Second plea in law, alleging that the European Commission failed to provide adequate reasons for its contested decision.
3. Third plea in law, alleging that the European Commission committed serious breaches of the principles of confidentiality and professional secrecy, contrary to Article 339 TFEU and Article 88(1) of the Single Resolution Mechanism and Single Resolution Fund Regulation (EU) No 806/2014 <sup>(2)</sup> 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 of Fundamental Rights of the European Union.
4. Fourth plea in law, alleging manifest errors of assessment in the European Commission's application of Articles 14, 18, 20, 21, 22 and 24 of Regulation No 806/2014.
  - In this regard, the applicants argue that the valuation of Banco Popular, which formed the basis for the resolution action taken under the Resolution Scheme, 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. Further and for the same reasons, the Resolution Scheme (and so the Decision) was manifestly disproportionate by going beyond the measures necessary to secure the resolution objectives.
5. Fifth plea in law, alleging that 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 of Fundamental Rights.
6. Sixth plea in law, alleging that the Resolution Scheme was adopted and endorsed by the European Commission in violation of the applicants' right to be heard, in accordance with Article 41 of the Charter of Fundamental Rights and the case law of the Court of Justice.

<sup>(1)</sup> Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for Banco Popular Español S.A. (notified under document C(2017) 4038), OJ 2017 L 178, p. 15.

<sup>(2)</sup> 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.